JUNIUS.

STAT NOMINIS UMBRA.

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LETTERS

OF

JUNIUS.

LETTER XXX.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 17 *October*, 1769.

IT is not wonderful that the great cauſe, in which this country is engaged, ſhould have rouſed and engroſſed the whole attention of the people. I rather admire the generous ſpirit, with which they feel and aſſert their intereſt in this important queſtion, than blame them for their indifference about any other. When the conſtitution is openly invaded, when the firſt original right of the people, from which all laws derive their authority, is directly attacked, inferior grievances naturally loſe their force, and are ſuffered to paſs by without puniſhment or obſervation. The preſent miniſtry are as ſingularly marked by their fortune, as by their crimes. Inſtead of atoning for their former conduct by a wiſe or popular meaſure, they have found, in the enormity of one fact, a cover and defence for a ſeries of meaſures, which muſt have been fatal to any other adminiſtration. I fear we are too remiſs in obſerving the whole of their proceedings. Struck with the principal figure, we do not ſufficiently mark in what

manner the canvaſs is filled up. Yet ſurely it is not a leſs crime, nor leſs fatal in its conſequences, to encourage a flagrant breach of the law by a military force, than to make uſe of the forms of parliament to deſtroy the conſtitution. The miniſtry ſeem determined to give us a choice of difficulties, and, if poſſible, to perplex us with the multitude of their offences. The expedient is worthy of the Duke of Grafton. But though he has preſerved a gradation and variety in his meaſures, we ſhould remember that the principle is uniform. Dictated by the ſame ſpirit, they deſerve the ſame attention. The following fact, though of the moſt alarming nature, has not yet been clearly ſtated to the public, nor have the conſequences of it been ſufficiently underſtood. Had I taken it up at an earlier period, I ſhould have been accuſed of an uncandid, malignant precipitation, as if I watched for an unfair advantage againſt the miniſtry, and would not allow them a reaſonable time to do their duty. They now ſtand without excuſe. Inſtead of employing the leiſure they have had in a ſtrict examination of the offence, and puniſhing the offenders, they ſeem to have conſidered *that* indulgence as a ſecurity to them, that, with a little time and management, the whole affair might be buried in ſilence, and utterly forgotten.

* A MAJOR general of the army is arreſted by the ſheriffs officers for a conſiderable debt. He perſuades them to conduct him to the Tilt-yard in St. James's Park, under ſome pretence of buſineſs, which it imported him to ſettle before he was con-

* Major General Ganſel.

fined.

fined. He applies to a ſerjeant, not immediately on duty, to aſſiſt with ſome of his companions in favouring his eſcape. He attempts it. A buſtle enſues. The bailiffs claim their priſoner. * An officer of the guards, not then on duty, takes part in the affair, applies to the † lieutenant commanding the Tilt-yard guard, and urges him to turn out his guard to relieve a general officer. The lieutenant declines interfering in perſon, but ſtands at a diſtance, and ſuffers the buſineſs to be done. The officer takes upon himſelf to order out the guard. In a moment they are in arms, quit their guard, march, reſcue the general, and drive away the ſheriffs officers, who, in vain repreſent their right to the priſoner, and the nature of the arreſt. The ſoldiers firſt conduct the general into the guard-room, then eſcort him to a place of ſafety, with bayonets fixed, and in all the forms of military triumph. I will not enlarge upon the various circumſtances which attended this atrocious proceeding. The perſonal injury received by the officers of the law in the execution of their duty, may perhaps be atoned for by ſome private compenſation. I conſider nothing but the wound, which has been given to the law itſelf, to which no remedy has been applied, no ſatisfaction made. Neither is it my deſign to dwell upon the miſconduct of the parties concerned, any farther than is neceſſary to ſhew the behaviour of the miniſtry in its true light. I would make every compaſſionate allowance for the infatuation of the priſoner, the falſe and criminal diſcretion of one officer,

* Lieutenant Dodd. † Lieutenant Garth.

and the madneſs of another. I would leave the ignorant ſoldiers entirely out of the queſtion. They are certainly the leaſt guilty, though they are the only perſons who have yet ſuffered, even in the appearance of puniſhment. * The fact itſelf, however atrocious, is not the principal point to be conſidered. It might have happened under a more regular government, and with guards better diſciplined than ours. The main queſtion is, in what manner have the miniſtry acted on this extraordinary occaſion. A general officer calls upon the king's own guard, then actually on duty, to reſcue him from the laws of his country; yet at this moment he is in a ſituation no worſe, than if he had not committed an offence, equally enormous in a civil and military view.—A lieutenant upon duty deſigneqly quits his guard, and ſuffers it to be drawn out by another officer, for a purpoſe, he well knew (as we may collect from appearance of caution, which only makes his behaviour the more criminal) to be in the higheſt degree illegal. Has this gentleman been called to a court martial to anſwer for his conduct? No. Has it been cenſured? No. Has it been in any ſhape inquired into? No.—Another lieutenant, not upon duty, nor even in his regimentals, is daring enough to order out the king's guard, over which he had properly no command, and engages them in a violation of the laws of his country, perhaps the moſt ſingular and extravagant that ever was attempted.—What puniſhment has *he* ſuffered? Literally none. Suppoſing he ſhould be proſecuted at common law

* A few of them were confined.

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for the reſcue, will that circumſtance, from which the miniſtry can derive no merit, excuſe or juſtify their ſuffering ſo flagrant a breach of military diſcipline to paſs by unpuniſhed, and unnoticed? Are they aware of the outrage offered to their ſovereign, when his own proper guard is ordered out to ſtop by main force, the execution of his laws? What are we to conclude from ſo ſcandalous a neglect of their duty, but that they have other views, which can only be anſwered by ſecuring the attachment of the guards? The miniſter would hardly be ſo cautious of offending them, if he did not mean, in due time, to call for their aſſiſtance.

WITH reſpect to the parties themſelves, let it be obſerved, that theſe gentlemen are neither young officers, nor very young men. Had they belonged to the unfledged race of enſigns, who infeſt our ſtreets, and diſhonour our public places, it might perhaps be ſufficient to ſend them back to that diſcipline, from which their parents, judging lightly from the maturity of their vices, had removed them too ſoon. In this caſe, I am ſorry to ſee, not ſo much the folly of youth, as the ſpirit of the corps, and the connivance of government. I do not queſtion that there are many brave and worthy officers in the regiments of guards. But conſidering them as a corps, I fear, it will be found that they are neither good ſoldiers, nor good ſubjects. Far be it from me to inſinuate the moſt diſtant reflection upon the army. On the contrary, I honour and eſteem the profeſſion; and if theſe gentlemen were better ſoldiers, I am ſure they would be better ſubjects. It is not that there is an inter-

nal vice or defect in the profeſſion itſelf, as regulated in this country, but that it is the ſpirit of this particular corps, to deſpiſe their profeſſion, and that while they vainly aſſume the lead of the army, they make it matter of impertinent compariſon and triumph over the braveſt troops in the world (I mean our marching regiments) that *they* indeed ſtand upon higher ground, and are privileged to neglect the laborious forms of military diſcipline and duty. Without dwelling longer upon a moſt invidious ſubject, I ſhall leave it to military men, who have ſeen a ſervice more active than the parade, to determine whether or no I ſpeak truth.

How far this dangerous ſpirit has been encouraged by government, and to what pernicious purpoſes it may be applied hereafter, well deſerves our moſt ſerious conſideration. I know indeed, that when this affair happened, an affectation of alarm ran through the miniſtry. Something muſt be done to ſave appearances. The caſe was too flagrant to be paſſed by abſolutely without notice. But how have they acted? Inſtead of ordering the officers concerned, (and who, ſtrictly ſpeaking, are alone guilty,) to be put under arreſt, and brought to trial, they would have it underſtood, that they did their duty completely, in confining a ſerjeant and four private ſoldiers, until they ſhould be demanded by the civil power; ſo that while the officers, who ordered or permitted the thing to be done, eſcape without cenſure, the poor men who obeyed thoſe orders, who in a military view are no way reſponſible for what they did, and who for that reaſon have been diſcharged by the civil magiſtrates,

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are the only objects whom the miniſtry have thought proper to expoſe to puniſhment. They did not venture to bring even theſe men to a court martial, becauſe they knew their evidence would be fatal to ſome perſons, whom they were determined to protect. Otherwiſe, I doubt not, the lives of theſe unhappy, friendleſs ſoldiers would long ſince have been ſacrificed without ſcruple to the ſecurity of their guilty officers.

I HAVE been accuſed of endeavouring to enflame the paſſions of the people.—Let me now appeal to their underſtanding. If there be any tool of adminiſtration daring enough to deny theſe facts, or ſhameleſs enough to defend the conduct of the miniſtry, let him come forward. I care not under what title he appears. He ſhall find me ready to maintain the truth of my narrative, and the juſtice of my obſervations upon it, at the hazard of my utmoſt credit with the public.

UNDER the moſt arbitrary governments, the common adminiſtration of juſtice is ſuffered to take its courſe. The ſubject, though robbed of his ſhare in the legiſlature, is ſtill protected by the laws. The political freedom of the Engliſh conſtitution was once the pride and honour of an Engliſhman. The civil equality of the laws preſerved the property, and defended the ſafety of the ſubject. Are theſe glorious privileges the birthright of the people, or are we only tenants at the will of the miniſtry?—But that I know there is a ſpirit of reſiſtance in the hearts of my countrymen, that they value life, not by its conveniences, but by the independence and dignity of their condition, I ſhould,

at this moment, appeal only to their diſcretion. I ſhould perſuade them to baniſh from their minds all memory of what we were; I ſhould tell them this is not a time to remember that we were Engliſhmen; and give it as my laſt advice, to make ſome early agreement with the miniſter, that ſince it has pleaſed him to rob us of thoſe political rights, which once diſtinguiſhed the inhabitants of a country, where honour was happineſs, he would leave us at leaſt the humble, obedient ſecurity of citizens, and graciouſly condeſcend to protect us in our ſubmiſſion.

JUNIUS.

LETTER XXXI.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 14 *Nov.* 1769.

THE variety of remarks, which have been made upon the laſt letter of *Junius*, and my own opinion of the Writer, who, whatever may be his faults, is certainly not a weak man, have induced me to examine, with ſome attention, the ſubject of that letter. I could not perſuade myſelf that, while he had plenty of important materials, he would have taken up a light or trifling occaſion to attack the Miniſtry; much leſs could I conceive that it was his intention to ruin the officers concerned in the reſcue of general Ganſel, or to injure the general himſelf. Theſe are little objects, and can no way contribute to the great purpoſes he ſeems to have in view by addreſſing himſelf to the public.—

lic.—Without conſidering the ornamented ſtile he has adopted, I determined to look farther into the matter, before I decided upon the merits of his letter. The firſt ſtep I took was to enquire into the truth of the facts; for if theſe were either falſe or miſrepreſented, the moſt artful exertion of his underſtanding, in reaſoning upon them, would only be a diſgrace to him.—Now, Sir, I have found every circumſtance ſtated by *Junius* to be literally true. General Ganſel perſuaded the bailiffs to conduct him to the parade, and certainly ſolicited a Corporal and other Soldiers to aſſiſt him in making his eſcape. Captain Dodd did certainly apply to Captain Garth for the aſſiſtance of his guard. Captain Garth declined appearing himſelf, but ſtood aloof, while the other took upon him to order out the King's guard, and by main force reſcued the General. It is alſo ſtrictly true, that the General was eſcorted by a file of muſqueteers to a place of ſecurity.—Theſe are facts, Mr. Woodfall, which I promiſe you no gentleman in the guards will deny. If all or any of them are falſe, why are they not contradicted by the parties themſelves? However ſecure againſt military cenſure, they have yet a character to loſe, and ſurely, if they are innocent, it is not beneath them to pay ſome attention to the opinion of the public.

THE force of *Junius*'s Obſervations upon theſe facts cannot be better marked, than by ſtating and refuting the objections which have been made to them. One writer ſays, "Admitting the officers "have offended, they are puniſhable at common "law, and will you have a Britiſh ſubject puniſh-

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" ed twice for the ſame offence ?"—I anſwer that they have committed two offences, both very enormous, and violated two laws. The reſcue is one offence, the flagrant breach of diſcipline another, and hitherto it does not appear that they have been puniſhed, or even cenſured for either. Another gentleman lays much ſtreſs upon the calamity of the caſe, and, inſtead of diſproving facts, appeals at once to the compaſſion of the public. This idea, as well as the inſinuation *that depriving the parties of their commiſſions would be an injury to their creditors*, can only refer to General Ganſel. The other officers are in no diſtreſs, therefore, have no claim to compaſſion, nor does it appear, that their creditors, if they have any, are more likely to be ſatisfied by their continuing in the guards. But this ſort of plea will not hold in any ſhape. Compaſſion to an offender, who has groſsly violated the laws, is in effect a cruelty to the peaceable ſubject who has obſerved them; and, even admitting the force of any alleviating circumſtances, it is nevertheleſs true, that, in this inſtance, the royal compaſſion has interpoſed too ſoon. The legal and proper mercy of a King of England may remit the puniſhment, but ought not to ſtop the trial.

BESIDES theſe particular objections, there has been a cry raiſed againſt *Junius* for his malice and injuſtice in attacking the miniſtry upon an event, which they could neither hinder nor foreſee. This, I muſt affirm, is a falſe repreſentation of his argument. He lays no ſtreſs upon the event itſelf, as a ground of accuſation againſt the miniſtry, but dwells entirely upon their ſubſequent conduct. He does

does not ſay that they are anſwerable for the offence, but for the ſcandalous neglect of their duty, in ſuffering an offence, ſo flagrant, to paſs by without notice or inquiry. Suppoſing them ever ſo regardleſs of what they owe to the public, and as indifferent about the opinion as they are about the intereſts of their country, what anſwer, as officers of the crown, will they give to *Junius*, when he aſks them, *Are they aware of the outrage offered to their Sovereign, when his own proper guard is ordered out to ſtop, by main force, the execution of his laws?*— And when we ſee a miniſtry giving ſuch a ſtrange unaccountable protection to the officers of the guards, is it unfair to ſuſpect, that they have ſome ſecret and unwarrantable motives for their conduct? If they feel themſelves injured by ſuch a ſuſpicion, why do they not immediately clear themſelves from it, by doing their duty? For the honour of the guards, I cannot help expreſſing another ſuſpicion, that, if the commanding officer had not received a ſecret injunction to the contrary, he would, in the ordinary courſe of his buſineſs, have applied for a court martial to try the two ſubalterns; the one for quitting his guard;—the other for taking upon him the command of the guard, and employing it in the manner he did. I do not mean to enter into or defend the ſeverity, with which *Junius* treats the guards. On the contrary, I will ſuppoſe, for a moment, that they deſerve a very different character. If this be true, in what light will they conſider the conduct of the two ſubalterns, but as a general reproach and diſgrace to the whole corps? And will they not wiſh to ſee them cenſured in a military

military way, if it were only for the credit and diſcipline of the Regiment?

UPON the whole, Sir, the Miniſtry ſeem to me to have taken a very improper advantage of the good-nature of the public, whoſe humanity, they found, conſidered nothing in this affair but the diſtreſs of General Ganſel. They would perſuade us that it was only a common reſcue by a few diſorderly ſoldiers, and not the formal deliberate act of the king's guard, headed by an officer, and the public has fallen into the deception. I think, therefore, we are obliged to *Junius* for the care he has taken to inquire into the facts, and for the juſt commentary with which he has given them to the world. —For my own part, I am as unwilling as any man to load the unfortunate; but, really, Sir, the precedent, with reſpect to the guards, is of a moſt important nature, and alarming enough (conſidering the conſequences with which it may be attended) to deſerve a parliamentary inquiry: when the guards are daring enough, not only to violate their own diſcipline, but publicly and with the moſt atrocious violence to ſtop the execution of the laws, and when ſuch extraordinary offences paſs with impunity, believe me, Sir, the precedent ſtrikes deep.

PHILO JUNIUS.

LETTER XXXII.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 15 *Nov.* 1769.

I ADMIT the claim of a gentleman, who publiſhes in the Gazetteer under the name of *Modeſtus*. He has ſome right to expect an anſwer from me; though, I think, not ſo much from the merit or importance of his objections, as from my own voluntary engagement. I had a reaſon for not taking notice of him ſooner, which, as he is a candid perſon, I believe he will think ſufficient. In my firſt letter, I took for granted, for the time which had elapſed, that there was no intention to cenſure, nor even to try the perſons concerned in the reſcue of General Ganſel; but *Modeſtus* having ſince either affirmed, or ſtrongly inſinuated, that the offenders might ſtill be brought to a legal trial, any attempt to prejudice the minds of the jury would be highly improper.

A MAN, more hoſtile to the miniſtry than I am, would not ſo often remind them of their duty. If the Duke of Grafton will not perform the duty of his ſtation, why is he miniſter?—I will not deſcend to a ſcurrilous altercation with any man: but this is a ſubject too important to be paſſed over with ſilent indifference. If the gentlemen, whoſe conduct is in queſtion, are not brought to a trial, the Duke of Grafton ſhall hear from me again.

THE motives on which I am ſuppoſed to have taken up this cauſe, are of little importance, compared with the facts themſelves, and the obſervations I have made upon them. Without a vain profeſſion of

of integrity, which, in theſe times, might juſtly be ſuſpected, I ſhall ſhew myſelf in effect a friend to the intereſts of my countrymen, and leave it to them to determine, whether I am moved by a perſonal malevolence to three private gentlemen, or merely a hope of perplexing the miniſtry, or whether I am animated by a juſt and honourable purpoſe of obtaining a ſatisfaction to the laws of this country, equal, if poſſible, to the violation they have ſuffered.

JUNIUS.

LETTER XXXIII.

TO HIS GRACE THE DUKE OF GRAFTON.

MY LORD, 29 *Nov.* 1769.

THOUGH my opinion of your Grace's integrity was but little affected by the coyneſs with which you received Mr. Vaughan's propoſals, I confeſs I give you ſome credit for your diſcretion. You had a fair opportunity of diſplaying a certain delicacy, of which you had not been ſuſpected; and you were in the right to make uſe of it. By laying in a moderate ſtock of reputation, you undoubtedly meant to provide for the future neceſſities of your character, that with an honourable reſiſtance upon record, you might ſafely indulge your genius, and yield to a favourite inclination with ſecurity. But you have diſcovered your purpoſes too ſoon; and, inſtead of the modeſt reſerve of virtue, have ſhewn us the termagant chaſtity of a prude, who gratifies her paſſions with diſtinction, and proſecutes one lover for a rape, while ſhe ſolicits the lewd embraces of another.

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YOUR cheek turns pale; for a guilty conſcience tells you, you are undone.—Come forward, thou virtuous miniſter, and tell the world by what intereſt Mr. Hine has been recommended to ſo extraordinary a mark of his Majeſty's favour; what was the price of the patent he has bought, and to what honourable purpoſe the money has been applied. Nothing leſs than many thouſands could pay colonel Burgoyne's expences at Preſton. Do you dare to proſecute ſuch a creature as Vaughan, while you are baſely ſetting up the Royal Patronage to auction? Do you dare to complain of an attack upon your own honour, while you are ſelling the favours of the crown, to raiſe a fund for corrupting the morals of the people? And, do you think it poſſible ſuch enormities ſhould eſcape without impeachment? It is indeed highly your intereſt to maintain the preſent houſe of commons. Having ſold the nation to you in groſs, they will undoubtedly protect you in the detail; for while they patronize your crimes, they feel for their own.

JUNIUS.

LETTER XXXIV.

TO HIS GRACE THE DUKE OF GRAFTON.

MY LORD, 12 *Dec.* 1769.

I FIND with ſome ſurpriſe, that you are not ſupported as you deſerve. Your moſt determined advocates have ſcruples about them, which you are unacquainted with; and, though there be nothing too hazardous for your Grace to engage in, there are ſome things too infamous for the vileſt proſtitute

proſtitute of a news-paper to defend*. In what other manner ſhall we account for the profound, ſubmiſſive ſilence, which you and your friends have obſerved upon a charge, which called immediately for the cleareſt refutation, and would have juſtified the ſevereſt meaſures of reſentment? I did not attempt to blaſt your character by an indirect, ambiguous inſinuation, but candidly ſtated to you a plain fact, which ſtruck directly at the integrity of a privy counſellor, of a firſt commiſſioner of the treaſury, and of a leading miniſter, who is ſuppoſed to enjoy the firſt ſhare in his Majeſty's confidence †. In every one of theſe capacities I employed the moſt moderate terms to charge you with treachery to your Sovereign, and breach of truſt in your office. I accuſed you of having ſold a patent place in the collection of the cuſtoms at Exeter, to one Mr. Hine, who, unable or unwilling to depoſit the whole purchaſe-money himſelf, raiſed part of it by contribution, and has now a certain Doctor Brocke quartered upon the ſalary for one hundred pounds a year.—No ſale by the candle was ever conducted with greater formality.—I affirm that the price, at which the place was knocked down (and which, I have good reaſon to think, was not leſs than three thouſand five hundred pounds) was, with your connivance and conſent, paid to Colonel Burgoyne, to reward him, I preſume, for the de-

* From the publication of the preceding to this date, not one word was ſaid in defence of the infamous Duke of Grafton. But vice and impudence ſoon recovered themſelves, and the ſale of the royal favour was openly avowed and defended. We acknowledge the piety of St. James's; but what is become of *his* morality?

† And by the ſame means preſerves it to this hour.

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cency of his deportment at Preſton; or to reimburſe him, perhaps, for the fine of one thouſand pounds, which, for that very deportment, the court of King's Bench thought proper to ſet upon him.—It is not often that the chief juſtice and the prime miniſter are ſo ſtrangely at variance in their opinions of men and things.

I THANK God there is not in human nature a degree of impudence daring enough to deny the charge I have fixed upon you. * Your courteous ſecretary, your confidential architect †, are ſilent as the grave. Even Mr. Rigby's countenance fails him. He violates his ſecond nature, and bluſhes whenever he ſpeaks of you.—Perhaps the noble Colonel himſelf will relieve you. No man is more tender of his reputation. He is not only nice, but perfectly ſore in every thing that touches his honour. If any man, for example, were to accuſe him of taking his ſtand at a gaming-table, and watching, with the ſobereſt attention, for a fair opportunity of engaging a drunken young nobleman at piquet, he would undoubtedly conſider it as an infamous aſperſion upon his character, and reſent it like a man of honour.—Acquitting him therefore of drawing a regular and ſplendid ſubſiſtence from any unworthy practices, either in his own houſe or elſewhere, let me aſk your Grace, for what military merits you have been pleaſed to reward him with military government? He had a regiment of dragoons, which one would imagine,

* Tommy Bradſhaw.

† Mr. Taylor. He and George Roſs, (the Scotch agent and worthy confidant of Lord Mansfield) managed the buſineſs.

was at leaſt an equivalent for any ſervices he ever performed. Beſides, he is but a young officer conſidering his preferment, and, except in his activity at Preſton, not very conſpicuous in his profeſſion. But it ſeems, the ſale of a civil employment was not ſufficient, and military governments, which were intended for the ſupport of worn-out veterans, muſt be thrown into the ſcale, to defray the extenſive bribery of a conteſted election. Are theſe the ſteps you take to ſecure to your Sovereign the attachment of his army? With what countenance dare you appear in the royal preſence, branded as you are with the infamy of a notorious breach of truſt? With what countenance can you take your ſeat at the treaſury-board or in council, when you feel that every circulating whiſper is at your expence alone, and ſtabs you to the heart? Have you a ſingle friend in parliament ſo ſhameleſs, ſo thoroughly abandoned, as to undertake your defence? You know, my Lord, that there is not a man in either houſe, whoſe character, however flagitious, would not be ruined by mixing his reputation with yours; and does not your heart inform you, that you are degraded below the condition of a man, when you are obliged to hear theſe inſults with ſubmiſſion, and even to thank me for my moderation?

We are told, by the higheſt judicial authority, that Mr. Vaughan's offer to purchaſe the reverſion of a patent in Jamaica (which he was otherwiſe ſufficiently entitled to) amounted to a high miſdemeanour. Be it ſo: and if he deſerves it, let him be puniſhed. But the learned judge might have had a fairer

a fairer opportunity of displaying the powers of his eloquence. Having delivered himself with so much energy upon the criminal nature, and dangerous consequences of any attempt to corrupt a man in your Grace's station, what would he have said to the minister himself, to that very privy counsellor, to that first commissioner of the treasury, who does not wait for, but impatiently solicits the touch of corruption; who employs the meanest of his creatures in these honourable services, and, forgetting the genius and fidelity of his secretary, descends to apply to his house-builder for assistance?

THIS affair, my Lord, will do infinite credit to government, if, to clear your character, you should think proper to bring it into the house of Lords, or into the court of King's Bench.——But, my Lord, you dare not do either.

JUNIUS.

LET-

A little before the publication of this and the preceding letter, the chaste Duke of Grafton had commenced a prosecution against Mr. Samuel Vaughan, for endeavouring to corrupt his integrity by an offer of five thousand pounds for a patent place in Jamaica. A rule to shew cause, why an information should not be exhibited against Vaughan for certain misdemeanors, being granted by the Court of King's Bench, the matter was solemnly argued on the 27. of November, 1769, and, by the unanimous opinion of the four judges, the rule was made absolute. The pleadings and speeches were accurately taken in short-hand and published. The whole of Lord Mansfield's speech, and particularly the following extracts from it, deserve the reader's attention. "A practice of the kind complained "of here is certainly dishonourable and scandalous.—If a man, "standing under the relation of an officer under the King, or of a "person in whom the King puts confidence, or of a minister, takes "money for the use of that confidence the King puts in him, he "basely betrays the King,—he basely betrays his trust.—If the King

LETTER XXXV.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

19 *December*, 1769.

When the complaints of a brave and powerful people are obſerved to encreaſe in proportion to the wrongs they have ſuffered; when, inſtead of ſinking into ſubmiſſion, they are rouſed to reſiſtance, the time will ſoon arrive at which every inferior conſideration muſt yield to the ſecurity of the Sovereign, and to the general ſafety of the ſtate. There is a moment of difficulty and danger, at which flattery and falſehood can no longer deceive, and ſimplicity itſelf can no longer be

" ſold the office, it would be acting contrary to the truſt the conſti-
" tution repoſed in him. The conſtitution does not intend the
" crown ſhould ſell thoſe offices, to raiſe a revenue out of them.—Is
" it poſſible to heſitate, whether this would not be criminal in the
" Duke of Grafton;—contrary to his duty as a privy counſellor;—
" contrary to his duty as a miniſter—contrary to his duty as a ſub-
" ject.—His advice ſhould be free according to his judgment;—It is
" the duty of his office;—he has ſworn to it."—Notwithſtanding all this, the chaſte Duke of Grafton certainly ſold a patent place to Mr. Hine for three thouſand five hundred pounds; and, for ſo doing, is now Lord Privy Seal to the chaſte George, with whoſe piety we are perpetually deafened. If the houſe of commons had done their duty, and impeached the black Duke for this moſt infamous breach of truſt, how woefully muſt poor, honeſt Mansfield have been puzzled! His embaraſſment would have afforded the moſt ridiculous ſcene, that ever was exhibited. To ſave the worthy judge from this perplexity, and the no leſs worthy Duke from impeachment, the proſecution againſt *Vaughan* was, immediately dropped upon my diſcovery and publication of the Duke's treachery. The ſuffering this charge to paſs, without any inquiry, fixes ſhameleſs proſtitution upon the face of the houſe of commons, more ſtrongly than even the Middleſex election.—Yet the licentiouſneſs of the preſs is complained of!

miſled.

miſled. Let us ſuppoſe it arrived. Let us ſuppoſe a gracious, well-intentioned prince, made ſenſible at laſt of the great duty he owes to his people, and of his own diſgraceful ſituation; that he looks round him for aſſiſtance, and aſks for no advice, but how to gratify the wiſhes, and ſecure the happineſs of his ſubjects. In theſe circumſtances, it may be matter of curious SPECULATION to conſider, if an honeſt man were permitted to approach a King, in what terms he would addreſs himſelf to his Sovereign. Let it be imagined, no matter how improbable, that the firſt prejudice againſt his character is removed, that the ceremonious difficulties of an audience are ſurmounted, that he feels himſelf animated by the pureſt and moſt honourable affections to his King and country, and that the great perſon, whom he addreſſes, has ſpirit enough to bid him ſpeak freely, and underſtanding enough to liſten to him with attention. Unacquainted with the vain impertinence of forms, he would deliver his ſentiments with dignity and firmneſs, but not without reſpect.

SIR,

IT is the misfortune of your life, and originally the cauſe of every reproach and diſtreſs, which has attended your government, that you ſhould never have been acquainted* with the language of truth, until you heard it in the complaints of your people. It is not, however, too late to correct the error of your education. We are ſtill inclined to make an indulgent allowance for the pernicious leſ-

ſons you received in your youth, and to form the moſt ſanguine hopes from the natural benevolence of your diſpoſition *. We are far from thinking you capable of a direct, deliberate purpoſe to invade thoſe original rights of your ſubjects, on which all their civil and political liberties depend. Had it been poſſible for us to entertain a ſuſpicion ſo diſhonourable to your character, we ſhould long ſince have adopted a ſtyle of remonſtrance very diſtant from the humility of complaint. The doctrince inculcated by our laws, *That the king can do no wrong*, is admitted without reluctance. We ſeparate the amiable, good-natured prince from the folly and treachery of his ſervants, and the private virtues of the man from the vices of his government. Were

* The plan of tutelage and future dominion over the heir apparent, laid many years ago at Carleton-houſe between the Princeſs Dowager and her favourite the Earl of Bute, was as groſs and palpable, as that, which was concerted between Anne of Auſtria and Cardinal Mazarin, to govern Lewis the Fourteenth, and in effect to prolong his minority until the end of their lives. That prince had ſtrong natural parts, and uſed frequently to bluſh for his own ignorance and want of education, which had been wilfully neglected by his mother and her minion. A little experience however ſoon ſhewed him how ſhamefully he had been treated, and for what infamous purpoſes he had been kept in ignorance. Our great Edward too, at an early period, had ſenſe enough to underſtand the nature of the connection between his abandoned mother, and the deteſted Mortimer. But, ſince that time, human nature, we may obſerve, is greatly altered for the better. Dowagers may be chaſte, and minions may be honeſt. When it was propoſed to ſettle the preſent King's houſhold as Prince of Wales, it is well known that the Earl of Bute was forced into it, in direct contradiction to the late king's inclination. *That* was the ſalient point, from which all the miſchiefs and diſgraces of the preſent reign, took life and motion. From that moment, Lord Bute never ſuffered the Prince of Wales to be an inſtant out of his ſight.—We need look no farther.

it

it not for this juſt diſtinction, I know not whether your Majeſty's condition, or that of the Engliſh nation, would deſerve moſt to be lamented. I would prepare your mind for a favourable reception of truth, by removing every painful, offenſive idea of perſonal reproach. Your ſubjects, Sir, wiſh for nothing but that, as *they* are reaſonable and affectionate enough to ſeparate your perſon from your government, ſo *you*, in your turn, ſhould diſtinguiſh between the conduct, which becomes the permanent dignity of a King, and that which ſerves only to promote the temporary intereſt and miſerable ambition of a miniſter.

You aſcended the throne with a declared, and, I doubt not, a ſincere reſolution of giving univerſal ſatisfaction to your ſubjects. You found them pleaſed with the novelty of a young prince, whoſe countenance promiſed even more than his words, and loyal to you not only from principle, but paſſion. It was not a cold profeſſion of allegiance to the firſt magiſtrate, but a partial, animated attachment to a favourite prince, the native of their country. They did not wait to examine your conduct, nor to be determined by experience, but gave you a generous credit for the future bleſſings of your reign, and paid you in advance the deareſt tribute of their affections. Such, Sir, was once the diſpoſition of a people, who now ſurround your throne with reproaches and complaints. Do juſtice to yourſelf. Baniſh from your mind thoſe unworthy opinions, with which ſome intereſted perſons have laboured to poſſeſs you. Diſtruſt the men, who tell you that the Engliſh are naturally light and

inconſtant;—that they complain without a cauſe. Withdraw your confidence equally from all parties: from miniſters, favourites, and relations; and let there be one moment in your life, in which you have conſulted your own underſtanding.

When you affectedly renounced the name of Engliſhman, believe me, Sir, you were perſuaded to pay a very ill-judged compliment to one part of your ſubjects, at the expence of another. While the natives of Scotland are not in actual rebellion, they are undoubtedly intitled to protection; nor do I mean to condemn the policy of giving ſome encouragement to the novelty of their affections for the houſe of Hanover. I am ready to hope for every thing from their new-born zeal, and from the future ſteadineſs of their allegiance. But hitherto they have no claim to your favour. To honour them with a determined predilection and confidence, in excluſion of your Engliſh ſubjects, who placed your family, and in ſpite of treachery and rebellion, have ſupported it upon the throne, is a miſtake too groſs, even for the unſuſpected generoſity of youth. In this error we ſee a capital violation of the moſt obvious rules of policy and prudence. We trace it, however, to an original bias in your education, and are ready to allow for your inexperience.

To the ſame early influence we attribute it, that you have deſcended to take a ſhare not only in the narrow views and intereſts of particular perſons, but in the fatal malignity of their paſſions. At your acceſſion to the throne, the whole ſyſtem of government was altered, not from wiſdom or deliberation,

beration, but becauſe it had been adopted by your predeceſſor. A little perſonal motive of pique and reſentment was ſufficient to remove the ableſt ſervants of the crown *; but it is not in this country, Sir, that ſuch men can be diſhonoured by the frowns of a King. They were diſmiſſed, but could not be diſgraced. Without entering into a minuter diſcuſſion of the merits of the peace, we may obſerve, in the imprudent hurry with which the firſt overtures from France were accepted, in the conduct of the negotiation, and terms of the treaty, the ſtrongeſt marks of that precipitate ſpirit of conceſſion, with which a certain part of your ſubjects have been at all times ready to purchaſe a peace with the natural enemies of this country. On *your* part we are ſatisfied that every thing was honourable and ſincere, and if England was ſold to France, we doubt not that your Majeſty was equally betrayed. The conditions of the peace were matter of grief and ſurpriſe to your ſubjects, but not the immediate cauſe of their preſent diſcontent.

HITHERTO, Sir, you had been ſacrificed to the prejudices and paſſions of others. With what firmneſs will you bear the mention of your own?

A MAN, not very honourably diſtinguiſhed in the world, commences a formal attack upon your favourite, conſidering nothing, but how he might beſt expoſe his perſon and principles to deteſtation, and the national character of his countrymen to

* One of the firſt acts of the preſent reign was to diſmiſs Mr. Legge, becauſe he had ſome years before refuſed to yield his intereſt in Hampſhire to a Scotchman recommended by Lord Bute. This was the reaſon publicly aſſigned by his Lordſhip.

contempt.

contempt. The natives of that country, Sir, are as much diſtinguiſhed by a peculiar character, as by your Majeſty's favour. Like another choſen people, they have been conducted into the land of plenty, where they find themſelves effectually marked, and divided from mankind. There is hardly a period, at which the moſt irregular character may not be redeemed. The miſtakes of one ſex find a retreat in patriotiſm; thoſe of the other in devotion. Mr. Wilkes brought with him into politics the ſame liberal ſentiments, by which his private conduct had been directed, and ſeemed to think, that, as there are few exceſſes, in which an Engliſh gentleman may not be permitted to indulge, the ſame latitude was allowed him in the choice of his political principles, and in the ſpirit of maintaining them.—I mean to ſtate, not entirely to defend his conduct. In the earneſtneſs of his zeal, he ſuffered ſome unwarrantable inſinuations to eſcape him. He ſaid more than moderate men would juſtify; but not enough to entitle him to the honour of your Majeſty's perſonal reſentment. The rays of Royal indignation, collected upon him, ſerved only to illuminate, and could not conſume. Animated by the favour of the people on one ſide, and heated by perſecution on the other, his views and ſentiments changed with his ſituation. Hardly ſerious at firſt, he is now an enthuſiaſt. The coldeſt bodies warm with oppoſition, the hardeſt ſparkle in colliſion. There is a holy miſtaken zeal in politics as well as religion. By perſuading others, we convince ourſelves. The paſſions are engaged, and create a maternal affection in the mind, which

forces

forces us to love the cauſe, for which we ſuffer.—Is this a contention worthy of a King? Are you not ſenſible how much the meanneſs of the cauſe gives an air of ridicule to the ſerious difficulties into which you have been betrayed? the deſtruction of one man has been now, for many years, the ſole object of your government, and if there can be any thing ſtill more diſgraceful, we have ſeen, for ſuch an object, the utmoſt influence of the executive power, and every miniſterial artifice exerted without ſucceſs. Nor can you ever ſucceed, unleſs *he* ſhould be imprudent enough to forfeit the protection of thoſe laws, to which you owe your crown, or unleſs your miniſters ſhould perſuade you to make it a queſtion of force alone, and try the whole ſtrength of government in oppoſition to the people. The leſſons *he* has received from experience, will probably guard him from ſuch exceſs of folly; and in your Majeſty's virtues we find an unqueſtionable aſſurance that no illegal violence will be attempted.

FAR from ſuſpecting you of ſo horrible a deſign, we would attribute the continued violation of the laws, and even this laſt enormous attack upon the vital principles of the conſtitution, to an ill-adviſed, unworthy, perſonal reſentment. From one falſe ſtep you have been betrayed into another, and as the cauſe was unworthy of you, your miniſters were determined that the prudence of the execution ſhould correſpond with the wiſdom and dignity of the deſign. They have reduced you to the neceſſity of chooſing out of a variety of difficulties; —to a ſituation ſo unhappy, that you can neither do wrong without ruin, nor right without affliction.

Theſe

Theſe worthy ſervants have undoubtedly given you many ſingular proofs of their abilities. Not contented with making Mr. Wilkes a man of importance, they have judiciouſly transferred the queſtion, from the rights and intereſts of one man, to the moſt important rights and intereſts of the people, and forced your ſubjects, from wiſhing well to the cauſe of an individual, to unite with him in their own. Let them proceed as they have begun, and your majeſty need not doubt that the cataſtrophe will do no diſhonour to the conduct of the piece.

The circumſtances to which you are reduced, will not admit of a compromiſe with the Engliſh nation. Undeciſive, qualifying meaſures will diſgrace your government ſtill more than open violence, and, without ſatisfying the people, will excite their contempt. They have too much underſtanding and ſpirit to accept of an indirect ſatisfaction for a direct injury. Nothing leſs than a repeal, as formal as the reſolution itſelf, can heal the wound, which has been given to the conſtitution, nor will any thing leſs be accepted. I can readily believe that there is an influence ſufficient to recal that pernicious vote. The houſe of commons undoubtedly conſider their duty to the crown as paramount to all other obligations. To *us* they are only indebted for an accidental exiſtence, and have juſtly transferred their gratitude from their parents to their benefactors; — from thoſe, who gave them birth, to the miniſter, from whoſe benevolence they derive the comforts and pleaſures of their political life; —who has taken the tendereſt care of their infancy, and relieves their neceſſities without offending their delicacy. But, if it were

were poſſible for their integrity to be degraded to a condition ſo vile and abject, that, compared with it, the preſent eſtimation they ſtand in is a ſtate of honour and reſpect, conſider, Sir, in what manner you will afterwards proceed. Can you conceive that the people of this country will long ſubmit to be governed by ſo flexible a houſe of commons! It is not in the nature of human ſociety, that any form of government, in ſuch circumſtances, can long be preſerved. In ours, the general contempt of the people is as fatal as their deteſtation. Such, I am perſuaded, would be the neceſſary effect of any baſe conceſſion made by the preſent houſe of commons, and, as a qualifying meaſure would not be accepted, it remains for you to decide whether you will, at any hazard, ſupport a ſet of men, who have reduced you to this unhappy dilemma, or whether you will gratify the united wiſhes of the whole people of England by diſſolving the parliament.

TAKING it for granted, as I do very ſincerely, that you have perſonally no deſign againſt the conſtitution, nor any view inconſiſtent with the good of your ſubjects, I think you cannot heſitate long upon the choice, which it equally concerns your intereſt, and your honour to adopt. On one ſide, you hazard the affections of all your Engliſh ſubjects; you relinquiſh every hope of repoſe to yourſelf, and you endanger the eſtabliſhment of your family for ever. All this you venture for no object whatſoever, or for ſuch an object, as it would be an affront to you to name. Men of ſenſe will examine your conduct with ſuſpicion; while thoſe who are incapable of comprehending to what degree they are injured,

affect

afflict you with clamours equally inſolent and unmeaning. Suppoſing it poſſible that no fatal ſtruggle ſhould enſue, you determine at once to be unhappy, without the hope of a compenſation either from intereſt or ambition. If an Engliſh King be hated or deſpiſed, he *muſt* be unhappy; and this perhaps is the only political truth, which he ought to be convinced of without experiment. But if the Engliſh people ſhould no longer confine their reſentment to a ſubmiſſive repreſentation of their wrongs; if, following the glorious example of their anceſtors, they ſhould no longer appeal to the creature of the conſtitution, but to that high Being, who gave them the rights of humanity, whoſe gifts it were ſacrilege to ſurrender, let me aſk you, Sir, upon what part of your ſubjects you would rely for aſſiſtance?

THE people of Ireland have been uniformly plundered and oppreſſed. In return, they give you every day freſh marks of their reſentment. They deſpiſe the miſerable governor you have ſent them *, becauſe he is the creature of Lord Bute; nor is it from any natural confuſion in their ideas, that they are ſo ready to confound the original of a king with the diſgraceful repreſentation of him.

THE diſtance of the Colonies would make it impoſſible for them to take an active concern in your affairs, if they were as well affected to your government as they once pretended to be to your perſon. They were ready enough to diſtinguiſh between *you* and your miniſters. They complained of an act of the legiſlature, but traced the origin of it no higher

* Viſcount Townſhend, ſent over on the plan of being reſident governor. The hiſtory of his ridiculous adminiſtration ſhall not be loſt to the public.

than

than the ſervants of the crown: They pleaſed themſelves with the hope that their Sovereign, if not favourable to their cauſe, at leaſt was impartial. The deciſive, perſonal part you took againſt them, has effectually baniſhed that firſt diſtinction from their minds *. They conſider you as united with your ſervants againſt America, and know how to diſtinguiſh the Sovereign and a venal parliament on one ſide, from the real ſentiments of the Engliſh people on the other. Looking forward to independence, they might poſſibly receive you for their king; but, if ever you retire to America, be aſſured they will give you ſuch a covenant to digeſt, as the preſbytery of Scotland would have been aſhamed to offer to Charles the ſecond. They left their native land in ſearch of freedom, and found it in a deſart. Divided as they are into a thouſand forms of policy and religion, there is one point in which they all agree: —they equally deteſt the pageantry of a king, and the ſupercilious hypocriſy of a biſhop.

It is not then from the alienated affections of Ireland or America, that you can reaſonably look for aſſiſtance; ſtill leſs from the people of England, who are actually contending for their rights, and in this great queſtion are parties againſt you. You are not however, deſtitute of every appearance of ſupport:

* In the King's ſpeech of 8 November, 1768, it was declared, "That the ſpirit of faction had broke out a freſh in ſome of the colonies, and, in one of them, proceeded to acts of violence and reſiſtance to the execution of the laws;—that Boſton was in a ſtate of diſobedience to all law and government, and had proceeded to meaſures ſubverſive of the conſtitution, and attended with circumſtances, that manifeſted a diſpoſition to throw off their dependance on Great Britain."

You

You have all the Jacobites, Non-jurors, Roman Catholics, and Tories of this country, and all Scotland without exception. Conſidering from what family you are deſcended, the choice of your friends has been ſingularly directed; and truly, Sir, if you had not loſt the whig intereſt of England, I ſhould admire your dexterity in turning the hearts of your enemies. Is it poſſible for you to place any confidence in men, who, before they are faithful to you, muſt renounce every opinion, and betray every principle, both in church and ſtate, which they inherit from their anceſtors, and are confirmed in by their education? whoſe numbers are ſo inconſiderable, that they have long ſince been obliged to give up the principles and language which diſtinguiſh them as a party, and to fight under the banners of their enemies? Their zeal begins with hypocriſy, and muſt conclude in treachery. At firſt they deceive; at laſt they betray.

As to the Scotch, I muſt ſuppoſe your heart and underſtanding ſo biaſſed, from your earlieſt infancy, in their favour, that nothing leſs than *your own* misfortunes can undeceive you. You will not accept of the uniform experience of your anceſtors; and when once a man is determined to believe, the very abſurdity of the doctrine confirms him in his faith. A bigoted underſtanding can draw a proof of attachment to the houſe of Hanover from a notorious zeal for the houſe of Stuart, and find an earneſt of future loyalty in former rebellions. Appearances are however in their favour; ſo ſtrongly indeed, that one would think they had forgotten that you are their lawful King, and had miſtaken

you

you for a pretender to the crown. Let it be admitted then that the Scotch are as ſincere in their preſent profeſſions, as if you were in reality not an Engliſhman, but a Briton of the North. You would not be the firſt prince, of their native country, againſt whom they have rebelled, nor the firſt whom they have baſely betrayed. Have you forgotten, Sir, or has your favourite concealed from you that part of our hiſtory, when the unhappy Charles, (and he too had private virtues) fled from the open, avowed indignation of his Engliſh ſubjects, and ſurrendered himſelf at diſcretion to the good faith of his own countrymen. Without looking for ſupport in their affections as ſubjects, he applied only to their honour as gentlemen, for protection. They received him as they would your Majeſty, with bows, and ſmiles, and falſehood, and kept him until they had ſettled their bargain with the Engliſh parliament; then baſely ſold their native king to the vengeance of his enemies. This, Sir, was not the act of a few traitors, but the deliberate treachery of a Scotch parliament, repreſenting the nation. A wiſe prince might draw from it two leſſons of equal utility to himſelf. On one ſide he might learn to dread the undiſguiſed reſentment of a generous people, who dare openly aſſert their rights, and who, in a juſt cauſe are ready to meet their Sovereign in the field. On the other ſide, he would be taught to apprehend ſomething far more formidable;—a fawning treachery, againſt which no prudence can guard, no courage can defend. The inſidious ſmile upon the cheek would warn him of the canker in the heart.

FROM the uſes, to which one part of the army has been too frequently applied, you have ſome reaſon to expect, that there are no ſervices they would refuſe. Here too we trace the partiality of your underſtanding. You take the ſenſe of the army from the conduct of the guards, with the ſame juſtice with which you collect the ſenſe of the people from the repreſentations of the miniſtry. Your marching regiments, Sir, will not make the guards their example either as ſoldiers or ſubjects. They feel and reſent, as they ought to do, that invariable, undiſtinguiſhed favour with which the guards are treated; * while thoſe gallant troops, by whom every hazardous, every laborious ſervice is performed, are left to periſh in garriſons abroad, or pine in quarters at home, neglected and forgotten. If they had no ſenſe of the great original duty they owe their country, their reſentment would operate like patriotiſm, and leave your cauſe to be defended by thoſe, to whom you have laviſhed the rewards and honours of their profeſſion. The Prætorian Bands, enervated and debauched as they were, had ſtill ſtrength enough to awe the Roman populace: but when the diſtant legions took the

* The number of commiſſioned officers in the guards are to the marching regiments as *one* to eleven;—the number of regiments given to the guards, compared with thoſe given to the line, is about three to one, at a moderate computation; conſequently the partiality in favour of the guards is as thirty-three to one.—So much for the officers.—The private men have four-pence a day to ſubſiſt on; and five hundred laſhes, if they deſert. Under this puniſhment, they frequently expire. With theſe encouragements, it is ſuppoſed, they may be depended upon, whenever a certain perſon thinks it neceſſary to butcher his *fellow ſubjects*.

alarm,

alarm, they marched to Rome, and gave away the empire.

On this ſide then, which ever way you turn your eyes, you ſee nothing but perplexity and diſtreſs. You may determine to ſupport the very miniſtry who have reduced your affairs to this deplorable ſituation: you may ſhelter yourſelf under the forms of a parliament, and ſet your people at defiance. But be aſſured, Sir, that ſuch a reſolution would be as imprudent as it would be odious. If it did not immediately ſhake your eſtabliſhment, it would rob you of your peace of mind for ever.

On the other, how different is the proſpect! How eaſy, how ſafe and honourable is the path before you! The Engliſh nation declare they are groſsly injured by their repreſentatives, and ſolicit your Majeſty to exert your lawful prerogative, and give them an opportunity of recalling a truſt, which, they find, has been ſcandalouſly abuſed. You are not to be told that the power of the houſe of commons is not original, but delegated to them for the welfare of the people, from whom they received it. A queſtion of right ariſes between the conſtituent and the repreſentative body. By what authority ſhall it be decided? Will your Majeſty interfere in a queſtion in which you have properly no immediate concern.—It would be a ſtep equally odious and unneceſſary. Shall the lords be called upon to determine the rights and privileges of the commons? —They cannot do it without a flagrant breach of the conſtitution. Or will you refer it to the judges?—They have often told your anceſtors, that the law of parliament is above them. What party then

remains, but to leave it to the people to determine for themſelves? They alone are injured; and ſince there is no ſuperior power, to which the cauſe can be referred, they alone ought to determine.

I DO not mean to perplex you with a tedious argument upon a ſubject already ſo diſcuſſed, that inſpiration could hardly throw a new light upon it. There are, however, two points of view, in which it particularly imports your Majeſty to conſider, the late proceedings of the houſe of commons. By depriving a ſubject of his birthright, they have attributed to their own vote an authority equal to an act of the whole legiſlature; and, though perhaps not with the ſame motives, have ſtrictly followed the example of the long parliament, which firſt declared the regal office uſeleſs, and ſoon after with as little ceremony, diſſolved the houſe of lords. The ſame pretended power, which robs an Engliſh ſubject of his birth-right, may rob an Engliſh King of his crown. In another view, the reſolution of the houſe of commons, apparently not ſo dangerous to your Majeſty, is ſtill more alarming to your people. Not contented with diveſting one man of his right, they have arbitrarily conveyed that right to another. They have ſet aſide a return as illegal, without daring to cenſure thoſe officers, who were particularly apprized of Mr. Wilkes's incapacity, not only by the declaration of the houſe, but expreſsly by the writ directed to them, and, who nevertheleſs returned him as duly elected. They have rejected the majority of votes, the only criterion, by which our laws judge of the ſenſe of the people; they have transferred the right of election

from

from the collective to the representative body; and by these acts, taken separately or together, they have essentially altered the original constitution of the house of commons. Versed, as your Majesty undoubtedly is, in the English history, it cannot easily escape you, how much it is your interest, as well as your duty to prevent one of the three estates from encroaching upon the province of the other two, or assuming the authority of them all. When once they have departed from the great constitutional line, by which all their proceedings should be directed, who will answer for their future moderation? Or what assurance will they give you, that, when they have trampled upon their equals, they will submit to a superior? Your Majesty may learn hereafter, how nearly the slave and tyrant are allied.

Some of your council, more candid than the rest, admit the abandoned profligacy of the present house of commons, but oppose their dissolution upon an opinion, I confess not very unwarrantable, that their successors would be equally at the disposal of the treasury. I cannot persuade myself that the nation will have profited so little by experience. But if that opinion were well founded, you might then gratify our wishes at an easy rate, and appease the present clamour against your government, without offering any material injury to the favourite cause of corruption.

You have still an honourable part to act. The affections of your subjects may still be recovered. But before you subdue *their* hearts, you must gain a noble victory over your own. Discard those little,

perſonal reſentments, which have too long directed your public conduct. Pardon this man the remainder of his puniſhment, and if reſentment ſtill prevails, make it, what it ſhould have been long ſince, an act, not of mercy, but contempt. He will ſoon fall back into his natural ſtation,—a ſilent ſenator, and hardly ſupporting the weekly eloquence of a news paper. The gentle breath of peace would leave him on the ſurface, neglected and unremoved. It is only the tempeſt, that lifts him from his place.

WITHOUT conſulting your miniſter, call togegether your whole council. Let it appear to the public that you can determine and act for yourſelf. Come forward to your people. Lay aſide the wretched formalities of a King, and ſpeak to your ſubjects with the ſpirit of a man, and in the language of a gentleman. Tell them that you have been fatally deceived. The acknowledgment will be no diſgrace, but rather an honour to your underſtanding. Tell them you are determined to remove every cauſe of complaint againſt your goverament; that you will give your confidence to no man, who does not poſſeſs the confidence of your ſubjects; and to leave it to themſelves to determine, by their conduct at a future election, whether or no it be in reality the general ſenſe of the nation, that their rights have been arbitrarily invaded by the preſent houſe of commons, and the conſtitution betrayed. They will then do juſtice to their repreſentatives and to themſelves.

THESE ſentiments, Sir, and the ſtile they are conveyed in, may be offenſive, perhaps, becauſe they are new to you. Accuſtomed to the language of courtiers,

courtiers, you measure their affections by the vehemence of their expressions; and when they only praise you indirectly, you admire their sincerity. But this is not a time to trifle with your fortune. They deceive you, Sir, who tell you that you have many friends, whose affections are founded upon a principle of personal attachment. The first foundation of friendship is not the power of conferring benefits, but the equality with which they are received, and *may* be returned. The fortune, which made you a King, forbad you to have a friend. It is a law of nature which cannot be violated with impunity. The mistaken prince, who looks for friendship, will find a favourite, and in that favourite the ruin of his affairs.

THE people of England are loyal to the house of Hanover, not from a vain preference of one family to another, but from a conviction that the establishment of that family was necessary to the support of their civil and religious liberties. This, Sir, is a principle of allegiance equally solid and rational;—fit for Englishmen to adopt, and well worthy of your Majesty's encouragement. We cannot long be deluded by nominal distinctions. The name of Stuart, of itself, is only contemptible;—armed with sovereign authority, their principles are formidable. The Prince, who imitates their conduct, should be warned by their example; and while he plumes himself upon the security of his title to the crown, should remember that, as it was acquired by one revolution it may be lost by another.

JUNIUS.

LETTER XXXVI.

TO HIS GRACE THE DUKE OF GRAFTON.

MY LORD, 14 *Feb.* 1770.

IF I were perſonally your enemy I might pity and forgive you. You have every claim to compaſſion, that can ariſe from miſery and diſtreſs. The condition you are reduced to would diſarm a private enemy of his reſentment, and leave no conſolation to the moſt vindictive ſpirit, but that ſuch an object, as you are, would diſgrace the dignity of revenge. But in the relation you have borne to this country, you have no title to indulgence; and if I had followed the dictates of my own opinion, I never ſhould have allowed you the reſpite of a moment. In your public character, you have injured every ſubject of the empire; and though an individual is not authoriſed to forgive the injuries done to ſociety, he is called upon to aſſert his ſeparate ſhare in the public reſentment. I ſubmitted however to the judgment of men, more moderate, perhaps more candid than myſelf. For my own part, I do not pretend to underſtand thoſe prudent forms of decorum, thoſe gentle rules of diſcretion, which ſome men endeavour to unite with the conduct of the greateſt and moſt hazardous affairs. Engaged in the defence of an honourable cauſe, I would take a deciſive part.—I ſhould ſcorn to provide for a future retreat, or to keep terms with a man, who preſerves no meaſures with the public. Neither the abject ſubmiſſion of deſerting his poſt in the hour of danger, nor even the

the * ſacred ſhield of cowardice ſhould protect him. I would purſue him through life, and try the laſt exertion of my abilities to preſerve the periſhable infamy of his name, and make it immortal.

WHAT then, my Lord, is this the event of all the ſacrifices you have made to Lord Bute's patronage, and to your own unfortunate ambition? Was it for this you abandoned your earlieſt friendſhips,—the warmeſt connexions of your youth, and all thoſe honourable engagements, by which you once ſolicited, and might have acquired the eſteem of your country? Have you ſecured no recompence for ſuch waſte of honour?—Unhappy man! what party will receive the common deſerter of all parties? Without a client to flatter, without a friend to conſole you, and with only one companion from the honeſt houſe of Bloomſbury, you muſt now retire into a dreadful ſolitude. At the moſt active period of life, you muſt quit the buſy ſcene, and conceal yourſelf from the world, if you would hope to ſave the wretched remains of a ruined reputation. The vices operate like age,—bring on diſeaſe before its time, and in the prime of youth leave the character broken and exhauſted.

YET your conduct has been myſterious, as well as contemptible. Where is now that firmneſs, or obſtinacy ſo long boaſted of by your friends, and acknowledged by your enemies? We were taught to expect, that you would not leave the ruin of this country to be compleated by other hands, but were determined either to gain a deciſive victory over the

* -------- *Sacra tremuere timore.* Every coward pretends to be planet-ſtruck.

con-

conſtitution, or to periſh bravely at leaſt behind the laſt dike of the prerogative. You knew the danger, and might have been provided for it. You took ſufficient time to prepare for a meeting with your parliament, to confirm the mercenary fidelity of your dependants, and to ſuggeſt to your Sovereign a language ſuited to his dignity at leaſt, if not to his benevolence and wiſdom. Yet, while the whole kingdom was agitated with anxious expectation upon one great point, you meanly evaded the queſtion, and, inſtead of the explicit firmneſs and deciſion of a King, you gave us nothing but the miſery of a ruined * grazier, and the whining piety of a Methodiſt. We had reaſon to expect, that notice would have been taken of the petitions which the king has received from the Engliſh nation; and although I can conceive ſome perſonal motives for not yielding to them, I can find none, in common prudence or decency, for treating them with contempt. Be aſſured, my Lord, the Engliſh people will not tamely ſubmit to this unworthy treatment;—they had a right to be heard, and their petitions, if not granted, deſerved to be conſidered. Whatever be the real views and doctrine of a court, the Sovereign ſhould be taught to preſerve ſome forms of attention to his ſubjects, and if he will not redreſs their grievances, not to make them a topic of jeſt and mockery among lords and ladies of the bedchamber. Injuries may be atoned for and forgiven; but inſults admit of no compenſation. They degrade the mind in its own eſteem, and force it to recover its level by revenge.

* There was ſomething wonderfully pathetic in the mention of the horned cattle.

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This neglect of the petitions was however a part of your original plan of government, nor will any conſequences it has produced account for your deſerting your Sovereign, in the midſt of that diſtreſs, in which you and your * new friends had involved him. One would think, my Lord, you might have taken this ſpirited reſolution before you had diſolved the laſt of thoſe early connexions, which once, even in your own opinion, did honour to your youth;—before you had obliged lord Granby to quit a ſervice he was attached to;—before you had diſcarded one chancellor, and killed another. To what an abject condition have you laboured to reduce the beſt of princes, when the unhappy man, who yields at laſt to ſuch perſonal inſtance and ſolicitation, as never can be fairly employed againſt a ſubject, feels himſelf degraded by his compliance, and is unable to ſurvive the diſgraceful honours which his gracious Sovereign had compelled him to accept. He was a man of ſpirit, for he had a quick ſenſe of ſhame, and death has redeemed his character. I know your grace too well to appeal to your feelings upon this event; but there is another heart, not yet, I hope, quite callous to the touch of humanity, to which it ought to be a dreadful leſſon for ever †.

Now, my Lord, let us conſider the ſituation to which you have conducted, and in which you thought it adviſeable to abandon your royal maſter. Whenever the people have complained, and nothing

* The Bedford party.

† The moſt ſecret particulars of this deteſtable tranſaction ſhall, in due time, be given to the public. The people ſhall know what kind of man they have to deal with.

better

better could be ſaid in defence of the meaſures of government, it has been the faſhion to anſwer us, though not very fairly, with an appeal to the private virtues of your Sovereign. "Has he not, to relieve "the people, ſurrendered a conſiderable part of his "revenue?—Has he not made the judges inde-"pendent, by fixing them in their places for life?" —My Lord, we acknowledge the gracious principle, which gave birth to theſe conceſſions, and have nothing to regret, but that it has never been adhered to. At the end of ſeven years, we are loaded with a debt of above five hundred thouſand pounds upon the civil liſt, and we now ſee the Chancellor of Great Britain tyrannically forced out of his office, not for want of abilities, not for want of integrity, or of attention to his duty, but for delivering his honeſt opinion in parliament, upon the greateſt conſtitutional queſtion, that has ariſen ſince the revolution.—We care not to whoſe private virtues you appeal; the theory of ſuch government is falſehood and mockery;—the practice is oppreſſion. You have laboured then (though I confeſs to no purpoſe) to rob your maſter of the only plauſible anſwer, that ever was given in defence of his government,—of the opinion, which the people had conceived of his perſonal honour and integrity.—The Duke of Bedford was more moderate than your Grace. He only forced his maſter to violate a ſolemn promiſe made to an * individual. But you, my Lord, have ſucceſsfully extended your advice to every political, every moral engagement, that could bind either the magiſtrate or the man. The condition of a King is

* Mr. Stuart Mackenzie.

often

often miſerable, but it required your Grace's abilities to make it contemptible.—You will ſay perhaps that the faithful ſervants, in whoſe hands you have left him, are able to retrieve his honour, and to ſupport his government. You have publickly declared, even ſince your reſignation, that you approved of their meaſures, and admired their conduct,—particularly that of the Earl of Sandwich. What a pity it is, that, with all this appearance, you ſhould think it neceſſary to ſeparate yourſelf from ſuch amiable companions? You forget, my Lord, that while you are laviſh in the praiſe of men whom you deſert, you are publicly oppoſing your conduct to your opinions, and depriving yourſelf of the only plauſible pretence you had for leaving your Sovereign overwhelmed with diſtreſs; I call it plauſible, for, in truth, there is no reaſon whatſoever, leſs than the frowns of your maſter, that could juſtify a man of ſpirit for abandoning his poſt at a moment ſo critical and important? It is in vain to evade the queſtion. If you will not ſpeak out, the public have a right to judge from appearances. We are authorized to conclude, that you either differ from your colleagues, whoſe meaſures you ſtill affect to defend, or that you thought the adminiſtration of the King's affairs no longer tenable. You are at liberty to chooſe between the hypocrite and the coward. Your beſt friends are in doubt which way they ſhall incline. Your country unites the characters, and gives you credit for them both. For my own part, I ſee nothing inconſiſtent in your conduct. You began with betraying the people,—you conclude with betraying the King.

In your treatment of particular perſons, you have preſerved the uniformity of your character. Even Mr. Bradſhaw declares, that no man was ever ſo ill uſed as himſelf. As to the proviſion * you have made for his family, he was intitled to it by the houſe he lives in. The ſucceſſor of one Chancellor might well pretend to be the rival of another. It is the breach of private friendſhip which touches Mr. Bradſhaw; and to ſay the truth, when a man of his rank and abilities had taken ſo active a part in your affairs, he ought not to have been let down at laſt with a miſerable penſion of fifteen hundred pounds a year. Colonel Luttrell, Mr. Onſlow, and Governor Burgoyne, were equally engaged with you, and have rather more reaſon to complain than Mr. Bradſhaw. Theſe are men, my Lord, whoſe friendſhip you ſhould have adhered to on the ſame principle, on which you deſerted Lord Rockingham, Lord Chatham, Lord Camden, and the Duke of Portland. We can eaſily account for your violating your engagements with men of honour, but why ſhould you betray

* A penſion of 1500*l.* per annum, inſured upon the 4 1-half per cents, (he was too cunning to truſt to Iriſh ſecurity) for the lives of himſelf and all his ſons. This gentleman, who a very few years ago was clerk to a contractor for forage, and afterwards exalted to a petty poſt in the war office, thought it neceſſary (as ſoon as he was appointed Secretary to the Treaſury) to take that great houſe in Lincoln's-Inn-Fields, in which the Earl of Northington had reſided, while he was Lord High Chancellor of Great Britain. As to the penſion, Lord North very ſolemnly aſſured the houſe of commons, that no penſion was ever ſo well deſerved as Mr. Bradſhaw's—— N. B. Lord Camden and Sir Jeffery Amherſt are not near ſo well provided for, and Sir Edward Hawke, who ſaved the ſtate, retires with two thouſand pounds a year, on the Iriſh eſtabliſhment, from which he in fact receives leſs than Mr. Bradſhaw's penſion.

your

your natural connexions? Why ſeparate yourſelf from Lord Sandwich, Lord Gower, and Mr. Rigby, or leave the three worthy gentlemen abovementioned to ſhift for themſelves? With all the faſhionable indulgence of the times, this country does not abound in characters like theirs; and you may find it a difficult matter to recruit the black catalogue of your friends.

THE recollection of the royal patent you ſold to Mr. Hine, obliges me to ſay a word in defence of a man whom you have taken the moſt diſhonourable means to injure. I do not refer to the ſham proſecution which you affected to carry on againſt him. On that ground, I doubt not he is prepared to meet you with tenfold recrimination, and ſet you at defiance. The injury you had done him affects his moral character. You knew that the offer to purchaſe the reverſion of a place, which has heretofore been ſold under a decree of the court of Chancery, however imprudent in his ſituation, would no way tend to cover him with that ſort of guilt which you wiſhed to fix upon him in the eyes of the world. You laboured then, by every ſpecies of falſe ſuggeſtion, and even by publiſhing counterfeit letters, to have it underſtood that he had propoſed terms of accommodation to you, and had offered to abandon his principles, his party, and his friends. You conſulted your own breaſt for a character of conſummate treachery, and gave it to the public for that of Mr. Vaughan. I think myſelf obliged to do this juſtice to an injured man, becauſe I was deceived by the appearances thrown out by your Grace, and have frequently ſpoken of his conduct with

with indignation. If he really be, what I think him, honeſt, though miſtaken, he will be happy in recovering his reputation, though at the expence of his underſtanding. Here, I ſee, the matter is likely to reſt. Your Grace is afraid to carry on the proſecution. Mr. Hine keeps quiet poſſeſſion of his purchaſe; and Governor Burgoyne, relieved from the apprehenſion of refunding the money, ſits down, for the remainder of his life, INFAMOUS AND CONTENTED.

I BELIEVE, my Lord, I may now take my leave of you for ever. You are no longer that reſolute miniſter, who had ſpirit to ſupport the moſt violent meaſures; who compenſated for the want of good and great qualities, by a brave determination, (which ſome people admired and relied on) to maintain himſelf without them. The reputation of obſtinacy and perſeverance might have ſupplied the place of all the abſent virtues. You have now added the laſt negative to your character, and meanly confeſſed that you are deſtitute of the common ſpirit of a man. Retire then, my Lord, and hide your bluſhes from the world; for, with ſuch a load of ſhame, even BLACK may change its colour. A mind ſuch as yours, in the ſolitary hours of domeſtic enjoyment, may ſtill find topics of conſolation. You may find it in the memory of violated friendſhip; in the afflictions of an accompliſhed prince, whom you have diſgraced and deſerted, and in the agitations of a great country, driven, by your councils, to the brink of deſtruction.

THE palm of miniſterial firmneſs is now tranſferred to Lord North. He tells us ſo himſelf, with

the

the plenitude of the *ore rotundo**; and I am ready enough to believe, that, while he can keep his place, he will not eaſily be perſuaded to reſign it. Your Grace was the firm miniſter of yeſterday: Lord North is the firm miniſter of to-day. To-morrow, perhaps, his Majeſty, in his wiſdom, may give us a rival for you both. You are too well acquainted with the temper of your late allies, to think it poſſible that Lord North ſhould be permitted to govern this country. If we may believe common fame, they have ſhewn him their ſuperiority already. His Majeſty is indeed too gracious to inſult his ſubjects, by chuſing his firſt miniſter from among the domeſtics of the Duke of Bedford. That would have been too groſs an outrage to the three kingdoms. Their purpoſe, however, is equally anſwered by puſhing forward this unhappy figure, and forcing it to bear the odium of meaſures, which they in reality direct. Without immediately appearing to govern, they poſſeſs the power, and diſtribute the emoluments of government as they think proper. They ſtill adhere to the ſpirit of that calculation, which made Mr. Luttrell repreſentative of Middleſex. Far from regretting your retreat, they aſſure us very gravely, that it encreaſes the real ſtrength of the miniſtry. According to this way of reaſoning, they will probably grow ſtronger, and more flouriſhing, every hour they exiſt; for I think there is hardly a day paſſes in which ſome one or other of his Majeſty's ſervants does not leave them

* This eloquent perſon has got as far as the *diſcipline* of Demoſthenes. He conſtantly ſpeaks with pebbles in his mouth, to improve his articulation.

to improve by the loſs of his aſſiſtance. But, alas! their countenances ſpeak a different language. When the members drop off, the main body cannot be inſenſible of its approaching diſſolution. Even the violence of their proceedings is a ſignal of deſpair. Like broken tenants, who have had warning to quit the premiſes, they curſe their landlord, deſtroy the fixtures, throw every thing into confuſion, and care not what miſchief they do to the eſtate.

JUNIUS.

LETTER XXXVII.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 19 *March*, 1770.

I BELIEVE there is no man, however indifferent about the intereſts of this country, who will not readily confeſs that the ſituation, to which we are now reduced, whether it has ariſen from the violence of faction, or from an arbitrary ſyſtem of government, juſtifies the moſt melancholy apprehenſions, and calls for the exertion of whatever wiſdom or vigour is left among us. The King's anſwer to the remonſtrance of the city of London, and the meaſures ſince adopted by the miniſtry, amount to a plain declaration, that the principle, on which Mr. Luttrell was ſeated in the houſe of commons, is to be ſupported in all its conſequences, and carried to its utmoſt extent. The ſame ſpirit, which violated the freedom of election, now invades the declaration and bill of rights, and threatens to puniſh the ſubject for exerciſing a privilege, hitherto undiſ-

undiſputed, of petitioning the crown. The grievances of the people are aggravated by inſults; their complaints not merely diſregarded, but checked by authority; and every one of thoſe acts, againſt which they remonſtrated, confirmed by the King's deciſive approbation. At ſuch a moment, no honeſt man will remain ſilent or inactive. However diſtinguiſhed by rank or property, in the rights of freedom we are all equal. As we are Engliſhmen, the leaſt conſiderable man among us has an intereſt equal to the proudeſt nobleman, in the laws and conſtitution of his country, and is equally called upon to make a generous contribution in ſupport of them;—whether it be the heart to conceive, the underſtanding to direct, or the hand to execute. It is a common cauſe, in which we are all intereſted, in which we ſhould all be engaged. The man who deſerts it at this alarming criſis, is an enemy to his country, and, what I think of infinitely leſs importance, a traitor to his Sovereign. The ſubject, who is truly loyal to the chief magiſtrate, will neither adviſe nor ſubmit to arbitrary meaſures. The city of London have given an example, which, I doubt not, will be followed by the whole kingdom. The noble ſpirit of the metropolis is the life-blood of the ſtate, collected at the heart: from that point it circulates, with health and vigour, through every artery of the conſtitution. The time is come, when the body of the Engliſh people muſt aſſert their own cauſe: conſcious of their ſtrength, and animated by a ſenſe of their duty, they will not ſurrender their birthright to miniſters, parliaments, or kings.

The city of London have expreſſed their ſentiments with freedom and firmneſs; they have ſpoken truth boldly; and, in whatever light their remonſtrance may be repreſented by courtiers, I defy the moſt ſubtle lawyer in this country to point out a ſingle inſtance, in which they have exceeded the truth. Even that aſſertion, which we are told is moſt offenſive to parliament, in the theory of the Engliſh conſtitution, is ſtrictly true. If any part of the repreſentative body be not choſen by the people, that part vitiates and corrupts the whole. If there be a defect in the repreſentation of the people, that power, which alone is equal to the making of the laws in this country, is not complete, and the acts of parliament under that circumſtance, are not the acts of a pure and entire legiſlature. I ſpeak of the theory of our conſtitution; and whatever difficulties or inconveniencies may attend the practice, I am ready to maintain, that, as far as the fact deviates from the principle, ſo far the practice is vicious and corrupt. I have not heard a queſtion raiſed upon any other part of the remonſtrance. That the principle, on which the Middleſex election was determined, is more pernicious in its effects, than either the levying of ſhip-money, by Charles the Firſt, or the ſuſpending power aſſumed by his ſon, will hardly be diſputed by any man who underſtands or wiſhes well to the Engliſh conſtitution. It is not an act of open violence done by the King, or any direct or palpable breach of the laws attempted by his miniſter, that can ever endanger the liberties of this country. Againſt ſuch a King or miniſter the people would immediately take the alarm, and all the

parties

parties unite to oppoſe him. The laws may be groſsly violated in particular inſtances, without any direct attack upon the whole ſyſtem. Facts of that kind ſtand alone; they are attributed to neceſſity, not defended by principle. We can never be really in danger, until the forms of parliament are made uſe of to deſtroy the ſubſtance of our civil and political liberties;—until parliament itſelf betrays its truſt, by contributing to eſtabliſh new principles of government, and employing the very weapons committed to it by the collective body, to ſtab the conſtitution.

As for the terms of the remonſtrance, I preſume it will not be affirmed, by any perſon leſs poliſhed than a gentleman uſher, that this is a ſeaſon for compliments. Our gracious King indeed is abundantly civil to himſelf. Inſtead of an anſwer to a petition, his majeſty, very gracefully pronounces his own panegyric; and I confeſs, that, as far as his perſonal behaviour, or the royal purity of his intentions is concerned, the truth of thoſe declarations, which the miniſter has drawn up for his maſter, cannot decently be diſputed. In every other reſpect, I affirm, that they are abſolutely unſupported, either in argument or fact. I muſt add too, that ſuppoſing the ſpeech were otherwiſe unexceptionable, it is not a direct anſwer to the petition of the city. His Majeſty is pleaſed to ſay, that he is always ready to receive the requeſts of his ſubjects; yet the ſheriffs were twice ſent back with an excuſe, and it was certainly debated in council whether or no the magiſtrates of the city of London ſhould be admitted to an audience. Whe-

ther the remonſtrance be or be not injurious to parliament, is the very queſtion between the parliament and the people, and ſuch a queſtion as cannot be decided by the aſſertion of a third party, however reſpectable. That the petitioning for a diſſolution of parliament is irreconcileable with the principles of the conſtitution is a new doctrine. His Majeſty perhaps has not been informed, that the houſe of commons themſelves have, by a formal reſolution, admitted it to be the right of the ſubject. His Majeſty proceeds to aſſure us that he has made the laws the rule of his conduct.—Was it in ordering or permitting his miniſters to apprehend Mr. Wilkes by a general warrant?—Was it in ſuffering his miniſters to revive the obſolete maxim of *nullum tempus* to rob the Duke of Portland of his property, and thereby give a deciſive turn to a county election?—Was it in erecting a chamber conſultation of ſurgeons, with authority to examine into and ſuperſede the legal verdict of a jury? Or did his Majeſty conſult the laws of this country, when he permitted his ſecretary of ſtate to declare, that whenever the civil magiſtrate is trifled with, a military force muſt be ſent for, *without the delay of a moment*, and effectually employed? Or was it in the barbarous exactneſs with which this illegal, inhuman doctrine was carried into execution?—If his Majeſty had recollected theſe facts, I think he would never have ſaid, at leaſt with any reference to the meaſures of his government, that he had made the laws the rule of his conduct. To talk of preſerving the affections, or relying on the ſupport of his ſubjects, while he continues to act upon theſe principles,

ciples, is indeed paying a compliment to their loyalty, which I hope they have too much ſpirit and underſtanding to deſerve.

His Majeſty, we are told, is not only punctual in the performance of his own duty, but careful not to aſſume any of thoſe powers which the conſtitution has placed in other hands. Admitting this laſt aſſertion to be ſtrictly true, it is no way to the purpoſe. The city of London have not deſired the King to aſſume a power placed in other hands. If they had, I ſhould hope to ſee the perſon, who dared to preſent ſuch a petition, immediately impeached. They ſolicit their Sovereign to exert that conſtitutional authority, which the laws have veſted in him, for the benefit of his ſubjects. They call upon him to make uſe of his lawful prerogative in a caſe, which our laws evidently ſuppoſed might happen, ſince they have provided for it by truſting the Sovereign with a diſcretionary power to diſſolve the parliament. This requeſt will, I am confident, be ſupported by remonſtrances from all parts of the kingdom. His Majeſty will find at laſt, that this is the ſenſe of his people, and that it is not his intereſt to ſupport either miniſtry or parliament, at the hazard of a breach with the collective body of his ſubjects.—That he is the King of a free people, is indeed his greateſt glory. That he may long continue the King of a free people, is the ſecond wiſh that animates my heart. The firſt is, THAT THE PEOPLE MAY BE FREE.*

JUNIUS.

* When his Majeſty had done reading his ſpeech, the Lord Mayor, &c. had the honour of kiſſing his Majeſty's hand; after which, as

LETTER XXXVIII.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 3 *April*, 1770.

IN my laſt letter I offered you my opinion of the truth and propriety of his Majeſty's anſwer to the city of London, conſidering it merely as the ſpeech of a miniſter, drawn up in his own defence, and delivered, as uſual, by the chief magiſtrate. I would ſeparate, as much as poſſible, the King's perſonal character and behaviour from the acts of the preſent government. I wiſh it to be underſtood that his Majeſty had in effect no more concern in the ſubſtance of what he ſaid, than Sir James Hodges had in the remonſtrance, and that as Sir James, in virtue of his office, was obliged to ſpeak the ſentiments of the people, his Majeſty might think himſelf bound, by the ſame official obligation, to give a graceful utterance to the ſentiments of his miniſter. The cold formality of a well repeated leſſon is widely diſtant from the animated expreſſion of the heart.

THIS diſtinction, however, is only true with reſpect to the meaſure itſelf. The conſequences of it reach beyond the miniſter, and materially affect his Majeſty's honour. In their own nature they are formidable enough to alarm a man of prudence, and diſgraceful enough to afflict a man of ſpirit. A

they were withdrawing, his Majeſty inſtantly turned round to his courtiers, *and burſt out a laughing.*

Nero fiddled, while Rome was burning. John Horne.

ſubject,

ſubject, whoſe ſincere attachment to his Majeſty's perſon and family is founded upon rational principles, will not, in the preſent conjuncture, be ſcrupulous of alarming, or even of afflicting his Sovereign. I know there is another ſort of loyalty, of which his Majeſty has had plentiful experience. When the loyalty of Tories, Jacobites, and Scotchmen, has once taken poſſeſſion of an unhappy Prince, it ſeldom leaves him without accompliſhing his deſtruction. When the poiſon of their doctrines has tainted the natural benevolence of his diſpoſition, when their inſidious counſels have corrupted the *ſtamina* of his government, what antidote can reſtore him to his political health and honour, but the firm ſincerity of his Engliſh ſubjects?

It has not been uſual in this country, at leaſt ſince the days of Charles the firſt, to ſee the ſovereign perſonally at variance, or engaged in a direct altercation with his ſubjects. Acts of grace and indulgence are wiſely appropriated to him, and ſhould conſtantly be performed by himſelf. He never ſhould appear but in an amiable light to his ſubjects. Even in France, as long as any ideas of a limited monarchy were thought worth preſerving, it was a maxim, that no man ſhould leave the royal preſence diſcontented. They have loſt or renounced the moderate principles of their government, and now, when their parliaments venture to remonſtrate, the tyrant comes forward, and anſwers abſolutely for himſelf. The ſpirit of their preſent conſtitution requires that the King ſhould be feared, and the principle, I believe, is tolerably ſupported by the fact. But, in our political ſyſtem, the theory is at variance with

with the practice, for the King ſhould be beloved. Meaſures of greater ſeverity may, indeed, in ſome circumſtances, be neceſſary; but the miniſter who adviſes, ſhould take the execution and odium of them entirely upon himſelf. He not only betrays his maſter, but violates the ſpirit of the Engliſh conſtitution, when he expoſes the chief magiſtrate to the perſonal hatred or contempt of his ſubjects. When we ſpeak of the firmneſs of government, we, mean an uniform ſyſtem of meaſures, deliberately adopted, and reſolutely maintained by the ſervants of the crown, not a peeviſh aſperity in the language or behaviour of the ſovereign. The government of a weak, irreſolute monarch may be wiſe, moderate, and firm;—that of an obſtinate capricious prince, on the contrary, may be feeble, undetermined and relaxed. The reputation of public meaſures depends upon the miniſter, who is reſponſible, not upon the King, whoſe private opinions are not ſuppoſed to have any weight againſt the advice of his counſel, whoſe perſonal authority ſhould therefore never be interpoſed in public affairs.—This, I believe, is true, conſtitutional doctrine. But for a moment let us ſuppoſe it falſe. Let it be taken for granted, that an occaſion may ariſe, in which a King of England ſhall be compelled to take upon himſelf the ungrateful office of rejecting the petitions, and cenſuring the conduct of his ſubjects; and let the City remonſtrance be ſuppoſed to have created ſo extraordinary an occaſion. On this principle, which I preſume no friend of adminiſtration will diſpute, let the wiſdom and ſpirit of the miniſtry be examined. They adviſe the King to hazard his dignity, by a poſitive declaration

ration of his own ſentiments;—they ſuggeſt to him a language full of ſeverity and reproach. What follows? When his Majeſty had taken ſo deciſive a part in ſupport of his miniſtry and parliament, he had a right to expect from them a reciprocal demonſtration of firmneſs in their own cauſe, and of their zeal for his honour. He had reaſon to expect (and ſuch, I doubt not, were the bluſtering promiſes of Lord North) that the perſons, whom he had been adviſed to charge with having failed in their reſpect to him, with having injured parliament, and violated the principles of the conſtitution, ſhould not have been permitted to eſcape without ſome ſevere marks of the diſpleaſure and vengeance of parliament. As the matter ſtands, the miniſter, after placing his ſovereign in the moſt unfavourable light to his ſubjects, and after attempting to fix the ridicule and odium of his own precipitate meaſures upon the royal character, leaves him a ſolitary figure upon the ſcene, to recal, if he can, or to compenſate, by future compliances, for one unhappy demonſtration of ill-ſupported firmneſs, and ineffectual reſentment. As a man of ſpirit, his Majeſty cannot but be ſenſible, that the lofty terms in which he was perſuaded to reprimand the city, when united with the ſilly concluſion of the buſineſs, reſemble the pomp of a mock-tragedy, where the moſt pathetic ſentiments, and even the ſufferings of the hero are calculated for deriſion.

SUCH has been the boaſted firmneſs and conſiſtency of a miniſter, * whoſe appearance in the houſe of commons

* This graceful miniſter is oddly conſtructed. His tongue is a little

commons was thought eſſential to the King's ſervice; —whoſe preſence was to influence every diviſion;—who had a voice to perſuade, an eye to penetrate, a geſture to command. The reputation of theſe great qualities has been fatal to his friends. The little dignity of Mr. Ellis, has been committed. The mine was ſunk;—combuſtibles provided, and Welbore Ellis, the Guy Faux of the fable, waited only for the ſignal of command. All of a ſudden the country gentlemen diſcover how groſsly they have been deceived;—the miniſter's heart fails him, the grand plot is defeated in a moment, and poor Mr. Ellis and his motion taken into cuſtody. From the event of Friday laſt, one would imagine, that ſome fatality hung over this gentleman. Whether he makes or ſuppreſſes a motion, he is equally ſure of diſgrace. But the complexion of the times will ſuffer no man to be vice-treaſurer of Ireland with impunity †

little too big for his mouth, and his eyes a great deal too big for their ſockets. Every part of his perſon ſets natural proportion at defiance. At this preſent writing, his head is ſuppoſed to be much too heavy for his ſhoulders.

† About this time, the courtiers talked of nothing but a bill of pains and penalties againſt the Lord Mayor and Sheriffs, or impeachment at the leaſt. Little *Monnikin Ellis* told the King that, if the buſineſs were left to his management, he would engage to do wonders. It was thought very odd that a motion of ſo much importance ſhould be intruſted to the moſt contemptible little piece of machinery in the whole kingdom. His honeſt zeal however was diſappointed. The miniſter took fright, and at the very inſtant that little Ellis was going to open, ſent him an order to ſit down. All their magnanimous threats ended in a ridiculous vote of cenſure, and ſtill more ridiculous addreſs to the King. This ſhameful deſertion ſo afflicted the generous mind of George the Third, that he was obliged to live upon potatoes for three weeks, to keep off a malignant fever.---Poor man!---*quis talia fando temperet a lacrymis!*

I DO not mean to expreſs the ſmalleſt anxiety for the miniſter's reputation. He acts ſeparately for himſelf, and the moſt ſhameful inconſiſtency may perhaps be no diſgrace to him. But when the Sovereign, who repreſents the majeſty of the ſtate, appears in perſon, his dignity ſhould be ſupported;—the plan well conſidered;—the execution ſteady and conſiſtent. My zeal for his Majeſty's real honour compels me to aſſert, that it has been too much the ſyſtem of the preſent reign, to introduce him perſonally, either to act for, or to defend his ſervants. They perſuade him to do what is properly *their* buſineſs, and deſert him in the midſt of it *. Yet this is an inconvenience, to which he muſt for ever be expoſed, while he adheres to a miniſtry divided among themſelves, or unequal in credit and ability to the great taſk they have undertaken. Inſtead of reſerving the interpoſition of the royal perſonage, as the laſt reſource of government, their weakneſs obliges them to apply it to every ordinary occaſion, and to render it cheap and common in the opinion of the people. Inſtead of ſupporting their maſter, they look to *him* for ſupport; and, for the emoluments of remaining one day more in office, care not how much his ſacred character is proſtituted and diſhonoured.

IF I thought it poſſible for this paper to reach the cloſet, I would venture to appeal at once to his Majeſty's judgment. I would aſk him, but in the moſt

* After a certain perſon had ſucceeded in cajolling Mr. Yorke, he told the Duke of Grafton, with a witty ſmile, "My Lord, you may kill the next Percy yourſelf.---N. B. He had but that inſtant wiped the tears away, which overcame Mr. Yorke.

reſpectful

reſpectful terms, "As you are a young man, Sir, "who ought to have a life of happineſs in proſpect; "—as you are a huſband;—as you are a father "[your filial duties I own have been religiouſly per-"formed] is it *bona fide* for your intereſt or your ho-"nour to ſacrifice your domeſtic tranquility, and to "live in a perpetual diſagreement with your people, "merely to preſerve ſuch a chain of beings as North, "Barrington, Weymouth, Gower, Ellis, Onſlow, "Rigby, Jerry Dyſon, and Sandwich? Their very "names are a ſatire upon all government, and I de-"fy the graveſt of your chaplains to read the cata-"logue without laughing."

For my own part, Sir, I have always conſidered addreſſes from parliament as a faſhionable, unmeaning formality. Uſurpers, idiots, and tyrants have been ſucceſſively complimented with almoſt the ſame profeſſions of duty and affection. But let us ſuppoſe them to mean exactly what they profeſs. The conſequences deſerve to be conſidered. Either the ſovereign is a man of high ſpirit and dangerous ambition, ready to take advantage of the treachery of his parliament, ready to accept of the ſurrender they make him of the public liberty;—or he is a mild, undeſigning prince, who, provided they indulge him with ſtate and pageantry, would of himſelf intend no miſchief. On the firſt ſuppoſition, it muſt ſoon be decided by the ſword, whether the conſtitution ſhould be loſt or preſerved. On the ſecond, a prince no way qualified for the execution of a great and hazardous enterprize, and without any determined object in view, may nevertheleſs be driven into ſuch deſperate meaſures, as may lead directly to his ruin, or diſ-

grace

grace himſelf by a ſhameful fluctuation between the extremes of violence at one moment, and timidity at another. The miniſter perhaps may have reaſon to be ſatisfied with the ſucceſs of the preſent hour, and with the profits of his employment. He is the tenant of the day, and has no intereſt in the inheritance. The ſovereign himſelf is bound by other obligations, and ought to look forward to a ſuperior, a permanent intereſt. His paternal tenderneſs ſhould remind him, how many hoſtages he has given to ſociety. The ties of nature come powerfully in aid of oaths and proteſtations. The father, who conſiders his own precarious ſtate of health, and the poſſible hazard of a long minority, will wiſh to ſee the family eſtate free and unincumbered *. What is the dignity of the crown, though it were really maintained;—what is the honour of parliament, ſuppoſing it could exiſt without any foundation of integrity and juſtice;—or what is the vain reputation of firmneſs, even if the ſcheme of the government were uniform and conſiſtent, compared with the heart-felt affections of the people, with the happineſs and ſecurity of the royal family, or even with the grateful acclamations of the populace! Whatever ſtyle of contempt may be adopted by miniſters or parliaments, no man ſincerely deſpiſes the voice of the Engliſh nation. The houſe of commons are only interpreters, whoſe duty it is to convey the ſenſe of the people faithfully to the crown. If the interpretation be falſe or imperfect, the conſti-

* Every true Friend of the Houſe of Brunſwick ſees with affliction, how rapidly ſome of the principal branches of the family have dropped off.

tuent

tuent powers are called upon to deliver their own ſentiments. Their ſpeech is rude, but intelligible; —their geſture fierce, but full of explanation. Perplexed by ſophiſtries, their honeſt eloquence riſes into action. Their firſt appeal was to the integrity of their repreſentatives:—the ſecond to the King's juſtice;—the laſt argument of the people, whenever they have recourſe to it, will carry more perhaps than perſuaſion to parliament, or ſupplication to the throne.

JUNIUS.

LETTER XXXIX.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 28 *May*, 1770.

WHILE parliament was ſitting, it would neither have been ſafe, nor perhaps quite regular, to offer any opinion to the public, upon the juſtice or wiſdom of their proceedings. To pronounce fairly upon their conduct, it was neceſſary to wait until we could conſider, in one view, the beginning, progreſs, and concluſion of their deliberations. The cauſe of the public was undertaken and ſupported by men, whoſe abilities and united authority, to ſay nothing of the advantageous ground they ſtood on, might well be thought ſufficient to determine a popular queſtion in favour of the people. Neither was the houſe of commons ſo abſolutely engaged in defence of the miniſtry, or even of their own reſolutions, but that *they* might have paid ſome decent regard to the known diſpoſi-

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tion of their conſtituents, and, without any diſhonour to their firmneſs, might have retracted an opinion too haſtily adopted, when they ſaw the alarm it had created, and how ſtrongly it was oppoſed by the general ſenſe of the nation. The miniſtry too would have conſulted their own immediate intereſt, in making ſome conceſſion ſatisfactory to the moderate part of the people. Without touching the fact, they might have conſented to guard againſt, or give up the dangerous principle, on which it was eſtabliſhed. In this ſtate of things, I think it was highly improbable at the beginning of the ſeſſion, that the complaints of the people upon a matter, which, in *their* apprehenſion at leaſt, immediately affected the life of the conſtitution, would be treated with as much contempt by their own repreſentatives, and by the houſe of lords, as they had been by the other branch of the legiſlature. Deſpairing of their integrity, we had a right to expect ſomething from their prudence, and ſomething from their fears. The Duke of Grafton certainly did not foreſee to what an extent the corruption of a parliament might be carried. He thought, perhaps, that there was ſtill ſome portion of ſhame or virtue left in the majority of the houſe of commons, or that there was a line in public proſtitution, beyond which they would ſcruple to proceed. Had the young man been a little more practiſed in the world, or had he ventured to meaſure the characters of other men by his own, he would not have been ſo eaſily diſcouraged.

THE prorogation of parliament naturally calls upon us to review their proceedings, and to conſi-

der the condition in which they have left the kingdom. I do not queſtion but they have done what is uſually called the King's buſineſs, much to his Majeſty's ſatisfaction. We have only to lament, that, in conſequence of a ſyſtem introduced or revived in the preſent reign, this kind of merit ſhould be very conſiſtent with the neglect of every duty they owe to the nation. The interval between the opening of the laſt and cloſe of the former ſeſſion was longer than uſual. Whatever were the views of the miniſter in deferring the meeting of parliament, ſufficient time was certainly given to every member of the houſe of commons, to look back upon the ſteps he had taken, and the conſequences they had produced. The zeal of party, the violence of perſonal animoſities, and the heat of contention had leiſure to ſubſide. From that period, whatever reſolution they took was deliberate and prepenſe. In the preceding ſeſſion, the dependents of the miniſtry had affected to believe, that the final determination of the queſtion would have ſatisfied the nation, or at leaſt put a ſtop to their complaints; as if the certainty of an evil could diminiſh the ſenſe of it, or the nature of injuſtice could be altered by deciſion. But they found the people of England were in a temper very diſtant from ſubmiſſion; and, although it was contended that the houſe of commons could not themſelves reverſe a reſolution, which had the force and effect of a judicial ſentence, there were other conſtitutional expedients, which would have given a ſecurity againſt any ſimilar attempts for the future. The general propoſition, in which the whole country had an intereſt,

reſt, might have been reduced to a particular fact, in which Mr. Wilkes and Mr. Luttrell would alone have been concerned. The houſe of lords might interpoſe;—the King might diſſolve the parliament;—or, if every other reſource failed, there ſtill lay a grand conſtitutional writ of error, in behalf of the people, from the deciſion of one court to the wiſdom of the whole legiſlature. Every one of theſe remedies has been ſucceſſively attempted. The people performed *their* part with dignity, ſpirit, and perſeverance. For many months his Majeſty heard nothing from his people but the language of complaint and reſentment;—unhappily for this country, it was the daily triumph of his courtiers that he heard it with an indifference approaching to contempt.

THE houſe of commons having aſſumed a power unknown to the conſtitution, were determined not merely to ſupport it in the ſingle inſtance in queſtion, but to maintain the doctrine in its utmoſt extent, and to eſtabliſh the fact as a precedent in law, to be applied in whatever manner his Majeſty's ſervants ſhould hereafter think fit. Their proceedings upon this occaſion are a ſtrong proof that a deciſion, in the firſt inſtance illegal and unjuſt, can only be ſupported by a continuation of falſehood and injuſtice. To ſupport their former reſolutions, they were obliged to violate ſome of the beſt known and eſtabliſhed rules of the houſe. In one inſtance they went ſo far as to declare, in open defiance of truth and common ſenſe, that it was not the rule of the houſe to divide a complicated queſtion, at the re-

queſt of a member *. But after trampling upon the laws of the land, it was not wonderful that they ſhould treat the private regulations of their own aſſembly with equal diſregard. The ſpeaker, being young in office, began with pretended ignorance, and ended with deciding for the miniſtry. We were not ſurprized at the deciſion; but he heſitated and bluſhed at his own baſeneſs, and every man was aſtoniſhed †.

THE intereſt of the public was vigorouſly ſupported in the houſe of lords. Their right to defend the conſtitution againſt an incroachment of the other eſtates, and the neceſſity of exerting it at this period, was urged to them with every argument, that could be ſuppoſed to influence the heart or the underſtanding. But it ſoon appeared, that they had already taken their part, and were determined to ſupport the houſe of commons, not only at the expence of truth and decency, but even by a ſurrender of their own moſt important rights. Inſtead of

* This extravagant reſolution appears in the Votes of the houſe; but, in the minutes of the committees, the inſtances of reſolutions contrary to law and truth, or of refuſals to acknowledge law and truth when propoſed to them, are innumerable.

† When the King firſt made it a meaſure of his government to deſtroy Mr. Wilkes, and when for this purpoſe it was neceſſary to run down privilege, Sir Fletcher Norton, with his uſual proſtituted effrontery, aſſured the houſe of commons, that he ſhould regard one of their votes, no more than a reſolution of ſo many drunken porters. This is the very Lawyer, whom Ben Johnſon deſcribes in the following lines:

"Gives forked counſel; takes provoking gold,
"*On either hand*, and puts it up.
"So wiſe, ſo grave, of ſo perplex'd a tongue,
"And *loud* withal, that would not wag, nor ſcarce
"Lie ſtill without *a fee*."

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performing that duty which the conſtitution expected from them, in return for the dignity and independence of their ſtation, in return for the hereditary ſhare it has given them in the legiſlature, the majority of them made common cauſe with the other houſe in oppreſſing the people, and eſtabliſhed another doctrine as falſe in itſelf, and if poſſible more pernicious to the conſtitution, than that on which the Middleſex election was determined. By reſolving, "that they had no right to impeach a "judgment of the houſe of commons in any caſe "whatſoever, where that houſe has a competent "juriſdiction," they in effect gave up that conſtitutional check and reciprocal controul of one branch of the legiſlature over the other, which is perhaps the greateſt and moſt important object provided for by the diviſion of the whole legiſlative power into three eſtates; and now, let the judicial deciſions of the houſe of commons be ever ſo extravagant, let their declarations of the law be ever ſo flagrantly falſe, arbitrary, and oppreſſive to the ſubject, the houſe of lords have impoſed a ſlaviſh ſilence upon themſelves;—they cannot interpoſe,—they cannot protect the ſubject,—they cannot defend the laws of their country. A conceſſion ſo extraordinary in itſelf, ſo contradictory to the principles of their own inſtitution, cannot but alarm the moſt unſuſpecting mind. We may well conclude, that the lords would hardly have yielded ſo much to the other houſe, without the certainty of a compenſation, which can only be made to them at the expence of

the people *. The arbitrary power they have aſſumed of impoſing fines and committing, during pleaſure, will now be exerciſed in its full extent. The houſe of commons are too much in their debt to queſtion or interrupt their proceedings. The crown too, we may be well aſſured, will loſe nothing in this new diſtribution of power. After declaring, that to petition for a diſſolution of parliament is irreconcileable with the principles of the conſtitution, his Majeſty has reaſon to expect that ſome extraordinary compliment will be returned to the Royal prerogative. The three branches of the legiſlature ſeem to treat their ſeparate rights and intereſts as the Roman Triumvirs did their friends. They reciprocally ſacrifice them to the animoſities of each other, and eſtabliſh a deteſtable union among themſelves, upon the ruin of the laws and liberty of the commonwealth.

THROUGH the whole proceedings of the houſe of commons in this ſeſſion, there is an apparent, a palpable conſcioufneſs of guilt, which has prevented their daring to aſſert their own dignity, where it has been immediately and groſsly attacked. In the courſe of Doctor Muſgrave's examination, he ſaid every thing that can be conceived mortifying to individuals, or offenſive to the houſe. They voted his information frivolous, but they were awed by his

* The man who reſiſts and overcomes this iniquitous power, aſſumed by the lords, muſt be ſupported by the whole people. We have the laws on our ſide, and want nothing but an intrepid leader. When ſuch a man ſtands forth, let the nation look to it. It is not *his* cauſe, but our own.

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firmneſs . . integrity, and ſunk under it*. The terms, in which the ſale of a patent to Mr. Hine were communicated to the public, naturally called for a parliamentary enquiry. The integrity of the houſe of commons was directly impeached; but they had not courage to move in their own vindication, becauſe the enquiry would have been fatal to Colonel Burgoyne, and the Duke of Grafton. When Sir George Savile branded them with the name of traitors to their conſtituents, when the Lord Mayor, the Sheriffs, and Mr. Trecothick, expreſsly avowed and maintained every part of the city remonſtrance, why did they tamely ſubmit to be inſulted? Why did they not immediately expel theſe refractory members? Conſcious of the motives, on which they had acted, they prudently preferred infamy to danger, and were better prepared to meet the contempt, than to rouze the indignation of the whole people. Had they expelled thoſe five members, the conſequences of the new doctrine of incapacitation would have come immediately home to every man. The truth of it would then have been fairly tried, without any reference to Mr. Wilkes's private character, or the dignity of the houſe, or the obſtinacy of one particular county. Theſe topics, I know, have had their weight with men, who affecting a character of moderation, in reality conſult nothing but their immediate eaſe; —who are weak enough to acquieſce under a flagrant violation of the laws, when it does not direct-

* The examination of this firm, honeſt man, is printed for *Almon*. The reader will find it a moſt curious, and a moſt intereſting tract. Doctor Muſgrave, with no other ſupport but truth, and his own firmneſs, reſiſted, and overcame the whole houſe of commons.

ly touch themſelves, and care not what injuſtice is practiſed upon a man, whoſe moral character they piouſly think themſelves obliged to condemn. In any other circumſtances, the houſe of commons muſt have forfeited all credit and dignity, if after ſuch groſs provocation, they had permitted thoſe five gentlemen to ſit any longer among them. We ſhould then have ſeen and felt the operation of a precedent, which is repreſented to be perfectly barren and harmleſs. But there is a ſet of men in this country, whoſe underſtandings meaſure the violation of law by the magnitude of the inſtance, not by the important conſequences, which flow directly from the principle, and the miniſter, I preſume, did not think it ſafe to quicken their apprehenſions too ſoon. Had Mr. Hampden reaſoned and acted like the moderate men of theſe days, inſtead of hazarding his whole fortune in a law-ſuit with the crown, he would have quietly paid the twenty ſhillings demanded of him,—the Stuart family would probably have continued upon the throne, and, at this moment, the impoſition of ſhip-money would have been an acknowledged prerogative of the crown.

WHAT then has been the buſineſs of the ſeſſion, after voting the ſupplies, and confirming the determination of the Middleſex election? The extraordinary prorogation of the Iriſh parliament, and the juſt diſcontents of that kingdom, have been paſſed by without notice. Neither the general ſituation of our Colonies, nor that particular diſtreſs which forced the inhabitants of Boſton to take up arms in their defence, have been thought worthy of a moment's conſideration. In the repeal of thoſe acts, which

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were moſt offenſive to America, the parliament have done every thing, but remove the offence. They have relinquiſhed the revenue, but judiciouſly take care to preſerve the contention. It is not pretended that the continuation of the tea duty is to produce any direct benefit whatſoever to the mother country. What is it then but an odious, unprofitable exertion of a ſpeculative right, and fixing a badge of ſlavery upon the Americans, without ſervice to their maſters? But it has pleaſed God to give us a miniſtry and a parliament, who are neither to be perſuaded by argument, nor inſtructed by experience.

Lord North, I preſume, will not claim an extraordinary merit from any thing he has done this year in the improvement or application of the revenue. A great operation, directed to an important object, though it ſhould fail of ſucceſs, marks the genius and elevates the character of a miniſter. A poor contracted underſtanding deals in little ſchemes, which diſhonour him if they fail, and do him no credit if they ſucceed. Lord North had fortunately the means in his poſſeſſion of reducing all the four per cents at once. The failure of his firſt enterprize in finance is not half ſo diſgraceful to his reputation as a miniſter, as the enterprize itſelf is injurious to the public. Inſtead of ſtriking one deciſive blow, which would have cleared the market at once, upon terms proportioned to the price of the four per cents ſix weeks ago, he has tampered with a pitiful portion of a commodity, which ought never to have been touched but in groſs;—he has given notice to the holders of that ſtock, of a deſign formed by government to prevail upon them

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to ſurrender it by degrees, conſequently has warned them to hold up and inhance the price ;—ſo that the plan of reducing the four per cents muſt either be dropped entirely, or continued with an increaſing diſadvantage to the public. The miniſter's ſagacity has ſerved to raiſe the value of the thing he means to purchaſe, and to ſink that of the three per cents, which it is his purpoſe to ſell. In effect, he has contrived to make it the intereſt of the proprietor of four per cents to ſell out and buy three per cents in the market, rather than ſubſcribe his ſtock upon any terms, that can poſſibly be offered by government.

THE ſtate of the nation leads us naturally to conſider the ſituation of the King. The prorogation of parliament has the effect of a temporary diſſolution. The odium of meaſures adopted by the collective body ſits lightly upon the ſeparate members, who compoſed it. They retire into ſummer quarters, and reſt from the diſgraceful labours of the campaign. But as for the Sovereign, *it is not ſo with him.* He has a permanent exiſtence in this country ; He cannot withdraw himſelf from the complaints, the diſcontents, the reproaches of his ſubjects. They purſue him to his retirement, and invade his domeſtic happineſs, when no addreſs can be obtained from an obſequious parliament to encourage or conſole him. In other times, the intereſt of the King and people of England was, as it ought to be, entirely the ſame. A new ſyſtem has not only been adopted in fact, but profeſſed upon principle. Miniſters are no longer the public ſervants of the ſtate, but the private domeſtics of the Sovereign.

reign. * One particular claſs of men are permitted to call themſelves the King's friends, as if the body of the people were the King's enemies; or as if his Majeſty looked for a reſource or conſolation, in the attachment of a few favourites, againſt the general contempt and deteſtation of his ſubjects. Edward, and Richard the ſecond, made the ſame diſtinction between the collective body of the people, and a contemptible party who ſurrounded the throne. The event of their miſtaken conduct might have been a warning to their ſucceſſors. Yet the errors of thoſe princes were not without excuſe. They had as many falſe friends, as our preſent gracious Sovereign, and infinitely greater temptations to ſeduce them. They were neither ſober, religious, nor demure. Intoxicated with pleaſure, they waſted their inheritance in purſuit of it. Their lives were like a rapid torrent, brilliant in proſpect, though uſeleſs or dangerous in its courſe. In the dull, unanimated exiſtence of other princes, we ſee nothing but a ſickly, ſtagnant water, which taints the atmoſphere without fertilizing the ſoil.—The morality of a King is not to be meaſured by vulgar rules. His ſituation is ſingular. There are faults which do him honour, and virtues that diſgrace him. A faultleſs, inſipid equality in his character, is neither capable of vice nor virtue in the extreme; but it ſecures his ſubmiſſion to thoſe perſons, whom he has been accuſtomed to reſpect, and makes him a

* "An ignorant, mercenary, and ſervile crew; unanimous in "evil, diligent in miſchief, variable in principles, conſtant to flat-"tery, talkers for liberty, but ſlaves to power;—ſtiling themſelves "the court party, and the prince's only friends."

Davenant.

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dangerous inſtrument of *their* ambition. Secluded from the world, attached from his infancy to one ſet of perſons, and one ſet of ideas, he can neither open his heart to new connexions, nor his mind to better information. A character of this ſort is the ſoil fitteſt to produce that obſtinate bigotry in politics and religion, which begins with a meritorious ſacrifice of the underſtanding, and finally conducts the monarch and the martyr to the block.

At any other period, I doubt not, the ſcandalous diſorders, which have been introduced into the government of all the dependencies in the Empire, would have rouzed the attention of the public. The odious abuſe and proſtitution of the prerogative at home,—the unconſtitutional employment of the military,—the arbitrary fines and commitments by the houſe of lords, and court of king's bench;—the mercy of a chaſte and pious Prince extended chearfully to a wilful murderer, becauſe that murderer is the brother of a common proſtitute *, would, I think, at any other time, have excited univerſal indignation. But the daring attack upon the conſtitution, in the Middleſex election, makes us callous and indifferent to inferior grievances. No man regards an eruption upon the ſurface, when the noble parts are invaded, and he feels a mortification approaching to his heart. The free election of our repreſentatives in parliament comprehends, becauſe it is, the ſource and ſecurity of every right and privilege of the Engliſh nation. The miniſtry have realiſed the compendious ideas of Caligula. They know that the liberty, the laws, and property

* Miſs Kennedy.

of

of an Engliſhman have in truth but one neck, and that to violate the freedom of election ſtrikes deeply at them all.

JUNIUS.

LETTER XL.

TO LORD NORTH.

MY LORD, 22 *Aug.* 1770.

MR. Luttrell's ſervices were the chief ſupport and ornament of the Duke of Grafton's adminiſtration. The honour of rewarding them was reſerved for your Lordſhip. The Duke, it ſeems, had contracted an obligation he was aſhamed to acknowledge, and unable to acquit. You, my Lord, had no ſcruples. You accepted the ſucceſſion with all its incumbrances, and have paid Mr. Luttrell his legacy, at the hazard of ruining the eſtate.

WHEN this accompliſhed youth declared himſelf the champion of government, the world was buſy in enquiring what honours or emoluments could be a ſufficient recompence, to a young man of his rank and fortune, for ſubmitting to mark his entrance into life with the univerſal contempt and deteſtation of his country.—His noble father had not been ſo precipitate.—To vacate his ſeat in parliament;—to intrude upon a county in which he had no intereſt or connexion;—to poſſeſs himſelf of another man's right, and to maintain it in defiance of public ſhame as well as juſtice, beſpoke a degree of zeal or of depravity, which all the favour of a pious Prince could hardly requite. I proteſt, my Lord, there is in this young man's conduct, a ſtrain of proſtitution,

tion, which, for its ſingularity, I cannot but admire. He has diſcovered a new line in the human character;—he has degraded even the name of Luttrell, and gratified his father's moſt ſanguine expectations.

THE Duke of Grafton, with every poſſible diſpoſition to patroniſe this kind of merit, was contented with pronouncing Colonel Luttrell's panegyric. The gallant ſpirit, the diſintereſted zeal of the young adventurer, were echoed through the houſe of lords. His Grace repeatedly pledged himſelf to the houſe, as an evidence of the purity of his friend Mr. Luttrell's intentions;—that he had engaged without any proſpect of perſonal benefit, and that the idea of compenſation would mortally offend him*. The noble Duke could hardly be in earneſt; but he had lately quitted his employment, and began to think it neceſſary to take ſome care of his reputation. At that very moment the Iriſh negociation was probably begun.—Come forward, thou worthy repreſentative of Lord Bute, and tell this inſulted country, who adviſed the King to appoint Mr. Luttrell, ADJUTANT-GENERAL to the army in Ireland. By what management was Colonel Cuninghame prevailed on to reſign his employment, and the obſequious Giſborne to accept of a penſion for the government of Kinſale†? Was it an original

* He now ſays that his great object is the rank of Colonel, and that he *will* have it.

† This infamous tranſaction ought to be explained to the public. Colonel Giſborne was quarter-maſter-general in Ireland. Lord Townſhend perſuades him to reſign to a Scotch officer, one Fraſer, and gives him the government of Kinſale.—Colonel Cuninghame was Adjutant-general in Ireland. Lord Townſhend offers him a penſion, to

nal ſtipulation with the Princeſs of Wales, or does he owe his preferment to your Lordſhip's partiality, or to the Duke of Bedford's friendſhip? My Lord, though it may not be poſſible to trace this meaſure to its ſource, we can follow the ſtream, and warn the country of its approaching deſtruction. The Engliſh nation muſt be rouzed, and put upon its guard. Mr. Luttrell has already ſhewn us how far he may be truſted, whenever an open attack is to be made upon the liberties of this country. I do not doubt that there is a deliberate plan formed.—— Your Lordſhip beſt knows by whom;—the corruption of the legiſlative body on this ſide—a military force on the other—and then, *Farewell to England!* It is impoſſible that any miniſter ſhall dare to adviſe the King to place ſuch a man as Luttrell in the confidential poſt of Adjutant-general, if there were not ſome ſecret purpoſe in view, which only ſuch a man as Luttrell is fit to promote. The inſult offered to the army in general is as groſs as the outrage intended to the people of England. What! Lieutenant-colonel Luttrell, Adjutant-general of an army of ſixteen thouſand men! one would think his Majeſty's campaigns at Blackheath and Wimbledon might have taught him better.——I cannot help wiſhing General Harvey joy of a colleague, who does ſo much honour to the employment.—But, my

to induce him to reſign to Luttrell. Cuninghame treats the offer with contempt. What's to be done? poor Gilborne muſt move once more.—He accepts of a penſion of 500l. a year, until a government of greater value ſhall become vacant. Colonel Cuninghame is made Governor of Kinſale; and Luttrell, at laſt, for whom the whole machinery is put in motion, becomes Adjutant-general, and in effect takes the command of the army in Ireland.

Lord,

Lord, this meaſure is too daring to paſs unnoticed, too dangerous to be received with indifference or ſubmiſſion. You ſhall not have time to new-model the Iriſh army. They will not ſubmit to be garbled by Colonel Luttrell. As a miſchief to the Engliſh conſtitution, (for he is not worth the name of enemy) they already deteſt him. As a boy, impudently thruſt over their heads, they will receive him with indignation and contempt.—As for you, my Lord, who perhaps are no more than the blind, unhappy inſtrument of Lord Bute and her Royal Highneſs the Princeſs of Wales, be aſſured that you ſhall be called upon to anſwer for the advice, which has been given, and either diſcover your accomplices, or fall a ſacrifice to their ſecurity.

JUNIUS.

LETTER XLI.

TO THE RIGHT HONOURABLE LORD MANSFIELD.

MY LORD, 14 *Nov.* 1770.

THE appearance of this letter will attract the curioſity of the public, and command even your Lordſhip's attention. I am conſiderably in your debt, and ſhall endeavour, once for all, to balance the account. Accept of this addreſs, my Lord, as a prologue to more important ſcenes, in which you will probably be called upon to act or ſuffer.

You will not queſtion my veracity, when I aſſure you that it has not been owing to any particular reſpect for your perſon that I have abſtained from

you

you ſo long. Beſides the diſtreſs and danger with which the preſs is threatened, when your lordſhip is party, and the party is to be judge, I confeſs I have been deterred by the difficulty of the taſk. Our language has no term of reproach, the mind has no idea of deteſtation, which has not already been happily applied to you, and exhauſted.—Ample juſtice has been done by abler pens than mine to the ſeparate merits of your life and character. Let it be *my* humble office to collect the ſcattered ſweets, till their united virtue tortures the ſenſe.

PERMIT me to begin with paying a juſt tribute to Scotch ſincerity, wherever I find it. I own I am not apt to confide in the profeſſions of gentlemen of that country, and when they ſmile, I feel an involuntary emotion to guard myſelf againſt miſchief. With this general opinion of an ancient nation, I always thought it much to your lordſhip's honour, that, in your earlier days, you were but little infected with the prudence of your country. You had ſome original attachments, which you took every proper opportunity to acknowledge. The liberal ſpirit of youth prevailed over your native diſcretion. Your zeal in the cauſe of an unhappy prince was expreſſed with the ſincerity of wine, and ſome of the ſolemnities of religion.* This I conceive, is the moſt amiable point of view, in which your character has appeared. Like an honeſt man you took that part in politics, which might have been expected from your birth, education, country and con-

* This man was always a rank Jacobite. Lord Ravenſworth produced the moſt ſatisfactory Evidence of his having frequently drank the Pretender's health upon his knees.

nexions. There was ſomething generous in your attachment to the baniſhed houſe of Stuart. We lament the miſtakes of a good man, and do not begin to deteſt him until he affects to renounce his principles. Why did you not adhere to the loyalty you once profeſſed? Why did you not follow the example of your worthy brother? * With him, you might have ſhared in the honour of the Pretender's confidence—with him, you might have preſerved the integrity of your character, and England, I think, might have ſpared you without regret. Your friends will ſay, perhaps, that altho' you deſerted the fortune of your liege lord, you have adhered firmly to the principles which drove his father from the throne;—that without openly ſupporting the perſon, you have done eſſential ſervice to the cauſe, and conſoled yourſelf for the loſs of a favourite family by reviving and eſtabliſhing the maxims of their government. This is the way, in which a Scotchman's underſtanding corrects the error of his heart. —My lord, I acknowledge the truth of the defence, and can trace it through all your conduct. I ſee through your whole life, one uniform plan to enlarge the power of the crown, at the expence of the liberty of the ſubject. To this object, your thoughts, words and actions have been conſtantly directed. In contempt or ignorance of the common law of England, you have made it your ſtudy to introduce into the court, where you preſide, maxims of juriſprudence unknown to Engliſhmen. The Roman code, the law of nations, and the opinion of foreign

* Confidential Secretary to the late Pretender. This circumſtance confirmed the friendſhip between the brothers.

civilians,

civilians, are your perpetual theme;—but whoever heard you mention Magna Charta or the Bill of Rights with approbation or reſpect? By ſuch treacherous arts, the noble ſimplicity and free ſpirit of our Saxon laws were firſt corrupted. The Norman conqueſt was not compleat, until Norman lawyers had introduced their laws, and reduced ſlavery to a ſyſtem.—This one leading principle directs your interpretation of the laws, and accounts for your treatment of juries. It is not in political queſtions only (for there the courtier might be forgiven) but let the cauſe be what it may, your underſtanding is equally on the rack, either to contract the power of the jury, or to miſlead their judgment. For the truth of this aſſertion, I appeal to the doctrine you delivered in Lord Groſvenor's cauſe. An action for criminal converſation being brought by a peer againſt a prince of the blood, you were daring enough to tell the jury that, in fixing the damages, they were to pay no regard to the quality or fortune of the parties;—that it was a trial between A. and B.—that they were to conſider the offence in a moral light only, and give no greater damages to a peer of the realm, than to the meaneſt mechanic. I ſhall not attempt to refute a doctrine, which, if it was meant for law, carries falſhood and abſurdity upon the face of it; but, if it was meant for a declaration of your political creed, is clear and conſiſtent. Under an arbitrary government, all ranks and diſtinctions are confounded. The honour of a nobleman is no more conſidered than the reputation of a peaſant, for, with different liveries, they are equally ſlaves.

Even in matters of private property, we ſee the

ſame byaſs and inclination to depart from the deciſions of your predeceſſors, which you certainly ought to receive as evidence of the common law. Inſtead of thoſe certain, poſitive rules, by which the judgment of a court of law ſhould invariably be determined, you have fondly introduced your own unſettled notions of equity and ſubſtantial juſtice. Deciſions given upon ſuch principles do not alarm the public ſo much as they ought, becauſe the conſequence and tendency of each particular inſtance, is not obſerved or regarded. In the mean time the practice gains ground; the court of King's Bench becomes a court of equity, and the judge, inſtead of conſulting ſtrictly the law of the land, refers only to the wiſdom of the court, and to the purity of his own conſcience. The name of Mr. Juſtice Yates, will naturally revive in your mind ſome of thoſe emotions of fear and deteſtation, with which you always beheld him. That great lawyer, that honeſt man, ſaw your whole conduct in the light that I do. After years of ineffectual reſiſtance to the pernicious principles introduced by your Lordſhip, and uniformly ſupported by your *humble friends* upon the bench, he determined, to quit a court, whoſe proceedings and deciſions he could neither aſſent to with honour, nor oppoſe with ſucceſs.

* THE injuſtice done to an Individual is ſometimes of ſervice to the public. Facts are apt to alarm us more than the moſt dangerous principles. The ſufferings and firmneſs of a Printer have rouſed the

* The oppreſſion of an obſcure individual gave birth to the famous *Habeas Corpus* Act of 31. Car. 2. which is frequently conſidered as another Magna Charta of the Kingdom. *Blackſtone*, 3. 135.

public

public attention. You knew and felt that your conduct would not bear a parliamentary inquiry, and you hoped to eſcape it by the meaneſt, the baſeſt ſacrifice of dignity and conſiſtency, that ever was made by a great magiſtrate. Where was your firmneſs, where was that vindictive ſpirit, of which we have ſeen ſo many examples, when a man ſo inconſiderable as Bingley, could force you to confeſs, in the face of this country, that, for two years together, you had illegally deprived an Engliſh ſubject of his liberty, and that he had triumphed over you at laſt? Yet I own, my Lord, that your's is not an uncommon character. Women, and men like woman, are timid, vindictive, and irreſolute. Their paſſions counteract each other, and make the ſame creature, at one moment hateful, at another contemptible. I fancy, my Lord ſome time will elapſe before you venture to commit another Engliſhman for refuſing to anſwer interrogatories. *

THE doctrine you have conſtantly delived, in caſes of libel, is another powerful evidence of a ſettled plan to contract the legal power of juries, and to draw queſtions, inſeparable from fact, within the *arbitrium* of the court. Here, my Lord, you have fortune of your ſide. When you invade the province of the jury, in matter of libel, you, in effect, attack the liberty of the preſs, and with a ſingle ſtroke, wound

* Bingley was committed for contempt in not ſubmitting to be examined: He lay in priſon two years, until the Crown thought the matter might occaſion ſome ſerious complaint, and therefore he was let out, in the ſame contumelious ſtate he had been put in, with all his ſins about him, unannointed and unannealed.—There was much coquetry between the Court and the Attorney General, about who ſhould undergo the ridicule of letting him eſcape.—*Vide another Letter to* Almon, *p.* 189.

two of your greateſt enemies.—In ſome inſtances you have ſucceeded, becauſe jurymen are too often ignorant of their own rights, and too apt to be awed by the authority of a chief juſtice. In other criminal proſecutions, the malice of the deſign is confeſſedly as much the ſubject of conſideration to a jury, as the certainty of the fact. If a different doctrine prevails in the caſe of libels, why ſhould it not extend to *all* criminal caſes?—Why not to capital offences? I ſee no reaſon (and I dare ſay you will agree with me that there is no good one) why the life of the ſubject ſhould be better protected againſt you, than his liberty or property. Why ſhould you enjoy the full power of pillory, fine, and impriſonment, and not be indulged with hanging or tranſportation? With your Lordſhip's fertile genius and merciful diſpoſition, I can conceive ſuch an exerciſe of the power you have, as could hardly be aggravated by that which you have not.

But, my Lord, ſince you have laboured, (and not unſucceſsfully) to deſtroy the ſubſtance *of the trial*, why ſhould you ſuffer the form of the *verdict* to remain? Why force twelve honeſt men, in palpable violation of their oaths, to pronounce their fellow-ſubject a *guilty* man, when, almoſt at the ſame moment, you forbid their enquiring into the only circumſtance, which in the eye of law and reaſon, conſtitutes guilt—the malignity or innocence of his intentions?—But I underſtand your Lordſhip.—If you could ſucceed in making the trial by jury uſeleſs and ridiculous, you might then with greater ſafety introduce a bill into parliament for enlarging the juriſdiction of the court, and extending your favourite

trial

trial by interrogatories to every queſtion, in which the life or liberty of an Engliſhman is concerned.*

YOUR charge to the jury, in the proſecution againſt Almon and Woodfall, contradicts the higheſt legal authorities, as well as the plaineſt dictates of reaſon. In Miller's cauſe, and ſtill more expreſsly in that of Baldwin, you have proceeded a ſtep farther, and groſsly contradicted yourſelf.—You may know perhaps, though I do not mean to inſult you by an appeal to your experience, that the language of truth is uniform and conſiſtent. To depart from it ſafely, requires memory and diſcretion. In the two laſt trials, your charge to the jury began, as uſual, with your aſſuring them that they had nothing to do with the law,—that they were to find the bare fact, and not concern themſelves about the legal inferences drawn from it, or the degree of the defendant's guilt. —Thus far you were conſiſtent with your former practice.—But how will you account for the concluſion? You told the jury that, "if, after all, they "would take upon themſelves to determine the law, "*they might do it*, but they muſt be very ſure that "they determined according to law, for it touched "their conſciences, and they acted at their peril." —If I underſtand your firſt propoſition, you meant

* The philoſophical poet, doth notably deſcribe the damnable and damned proceedings of the Judge of Hell,

"Gnoſſius hæc Rhadamanthus habet duriſſima regna,
"Caſtigatque, auditique dolos, *ſubigitque fateri*."

Firſt he puniſheth and *then* he heareth: and laſtly compelleth to confeſs, and makes and mars laws at his pleaſure; like as the Centurion, in the holy hiſtory did to St. Paul, for the text ſaith, "Centurio "apprehendi Paulum juſſit, & ſe catenis eligari, et *tunc* INTERRO-"GABAT, quis fuiſſet, & quid feciſſet;" but good Judges and Juſtices abhor theſe Courſes. *Coke* 2. *Inſt.* 55.

to affirm, that the jury were not competent judges of the law in the criminal caſe of a libel—that it did not fall within *their* juriſdiction; and that, with reſpect to *them*, the malice or innocence of the defendant's intentions would be a queſtion *coram non judice*.—But the ſecond propoſition clears away your own difficulties, and reſtores the jury to all their judicial capacities. * You make the competence of the court to depend upon the legality of the deciſion. In the firſt inſtance you deny the power abſolutely. In the ſecond, you admit the power, provided it be legally exerciſed. Now, my Lord, without pretending to reconcile the diſtinctions of Weſtminſter-hall with the ſimple information of common-ſenſe, or the integrity of fair argument, I ſhall be underſtood by your Lordſhip, when I aſſert that, if a jury or any other court of judicature (for jurors are judges) have no right to entertain a cauſe, or queſtion of law, it ſignifies nothing whether their deciſion be or be not according to law. Their deciſion is in itſelf a mere nullity: the parties are not bound to ſubmit to it; and, if the jury run any riſque of puniſhment, it is not for pronouncing a corrupt or illegal verdict, but for the illegality of meddling with a point, on which they have no legal authority to decide †.

I CAN-

* Directly the reverſe of the doctrine he conſtantly maintained in the houſe of lords and elſewhere, upon the deciſion of the Middleſex elect. He invariably aſſerted that the deciſion muſt be *legal*, becauſe the court was *competent*; and never could be prevailed on to enter farther into the queſtion.

† Theſe iniquitous proſecutions coſt the beſt of princes ſix thouſand pounds, and ended in the total defeat and diſgrace of the proſecutors. In the courſe of one of them Judge Aſton had the unparalleled impudence to tell Mr. Morris (a gentleman of unqueſtionable honour and integrity,

I CANNOT quit this ſubject without reminding your Lordſhip of the name of Mr. Benſon. Without offering any legal objection, you ordered a ſpecial juryman to be ſet aſide in a cauſe, where the King was proſecutor. The novelty of the fact required an explanation. Will you condeſcend to tell the world by what law or cuſtom you were authoriſed to make a peremptory challenge of a juryman? The parties indeed have this power, and perhaps your Lordſhip, having accuſtomed yourſelf to unite the characters of judge and party, may claim it in virtue of the new capacity you have aſſumed, and profit by your own wrong. The time, within which you might have been puniſhed for this daring attempt to pack a jury, is I fear, elapſed; but no length of time ſhall eraſe the record of it.

THE miſchiefs you have done this country, are not confined to your interpretation of the laws. You are a miniſter, my Lord, and, as ſuch, have long been conſulted. Let us candidly examine what uſe you have made of your miniſterial influence. I will not deſcend to little matters, but come at once to thoſe important points, on which your reſolution was waited for, on which the expectation of your opinion kept a great part of the nation in ſuſpence. A conſtitutional queſtion ariſes upon a declaration of the law of parliament, by which the freedom of election, and the birthright of the ſubject were ſuppoſed to have been invaded.—The King's ſervants are accuſed of violating the conſtitution.—The nation is in a ferment.—The ableſt men of all par-

integriry, and who was then giving his evidence on oath) that *he ſhould pay very little regard to any affidavit he ſhould make.*

ties

ties engage in the queſtion, and exert their utmoſt abilities in the diſcuſſion of it.—What part has the honeſt Lord Mansfield acted? As an eminent judge of the law, his opinion would have been reſpected.—As a peer he had a right to demand an audience of his Sovereign, and inform him that his miniſters were purſuing unconſtitutional meaſures. —Upon other occaſions, my Lord, you have no difficulty in finding your way to the cloſet. The pretended neutrality of belonging to no party, will not ſave your reputation. In queſtions merely political, an honeſt man may ſtand neuter. But the laws and conſtitution are the general property of the ſubject; not to defend is to relinquiſh;—and who is there ſo ſenſeleſs as to renounce his ſhare in a common benefit, unleſs he hopes to profit by a new diviſion of the ſpoil? As a lord of parliament, you were repeatedly called upon to condem nor defend the new law declared by the houſe of commons. You affected to have ſcruples, and every expedient was attempted to remove them.—The queſtion was propoſed and urged to you in a thouſand different ſhapes. —Your prudence ſtill ſupplied you with evaſion;— your reſolution was invincible. For my own part, I am not anxious to penetrate this ſolemn ſecret. I care not to whoſe wiſdom it is intruſted, nor how ſoon you carry it with you to the grave *. You have betrayed your opinion by the very care you have taken to conceal it. It is not from Lord Manſ-

* He ſaid in the houſe of lords, that he believed he ſhould carry his opinion with him to the grave. It was afterwards reported that he intruſted it, in ſpecial confidence, to the ingenious Duke of Cumberland.

field

field that we expect any reſerve in declaring his real ſentiments in favour of government, or in oppoſition to the people; nor is it difficult to account for the motions of a timid, diſhoneſt heart, which neither has virtue enough to acknowledge truth, nor courage to contradict it.—Yet you continue to ſupport an adminiſtration which you know is univerſally odious, and which, on ſome occaſions, you yourſelf ſpeak of with contempt. You would feign be thought to take no ſhare in government, while, in reality, you are the main ſpring in the machine.—Here too we trace the *little*, prudential policy of a Scotchman. —Inſtead of acting that open, generous part, which becomes your rank and ſtation, you meanly ſkulk into the cloſet, and give your ſovereign ſuch advice, as you have not ſpirit to avow or defend. You ſecretly engroſs the power, while you decline the title of miniſter; and though you dare not be Chancellor, you know how to ſecure the emoluments of the office.—Are the ſeals to be for ever in commiſſion, that you may enjoy five thouſand pounds a year?—I beg pardon, my Lord;—your fears have interpoſed at laſt, and forced you to reſign.—The odium of continuing ſpeaker of the houſe of lords, upon ſuch terms was too formidable to be reſiſted. What a multitude of bad paſſions are forced to ſubmit to a conſtitutional infirmity! But though you have relinquiſhed the ſalary, you ſtill aſſume the rights of a miniſter.—Your conduct, it ſeems, muſt be defended in parliament.—For what other purpoſe is your wretched friend, that miſerable ſerjeant, poſted to the houſe of commons? Is it in the abilities of Mr. Leigh to defend the great Lord Mansfield?—Or is

he

he only the Punch of the puppet-ſhew, to ſpeak as he is prompted, by the CHIEF JUGGLER behind the curtain*?

IN public affairs, my Lord, cunning, let it be ever ſo well wrought, will not conduct a man honourably through life. Like bad money, it may be current for a time, but it will ſoon be cried down. It cannot conſiſt with a liberal ſpirit, though it be ſometimes united with extraordinary qualifications. When I acknowledge your abilities, you may believe I am ſincere. I feel for human nature, when I ſee a man, ſo gifted as you are, deſcend to ſuch vile practice.—Yet do not ſuffer your vanity to conſole you too ſoon. Believe me, my good Lord, you are not admired in the ſame degree, in which you are deteſted. It is only the partiality of your friends, that balances the defects of your heart with the ſuperiority of your underſtanding. No learned man, even among your own tribe, thinks you qualified to preſide in a court of common law. Yet it is confeſſed that, under *Juſtinian*, you might have made an incomparable *Prætor*.—It is remarkable enough, but I hope not ominous, that the laws you underſtand beſt, and the judges you affect to admire moſt, flouriſhed in the decline of a great empire, and are ſuppoſed to have contributed to its fall.

HERE, my Lord, it may be proper for us to pauſe together.—It is not for my own ſake that I wiſh you to conſider the delicacy of your ſituation.

* This paragraph gagged poor *Leigh*. I really am concerned for the man, and wiſh it were poſſible to open his mouth.—He is a very pretty orator.

Beware

Beware how you indulge the firſt emotions of your reſentment. This paper is delivered to the world, and cannot be recalled. The perſecution of an innocent printer cannot alter facts, nor refute arguments.—Do not furniſh me with farther materials againſt yourſelf.—An honeſt man, like the true religion, appeals to the underſtanding, or modeſtly confides in the internal evidence of his conſcience. The impoſtor employs force inſtead of argument, impoſes ſilence where he cannot convince, and propagates his character by the ſword.

JUNIUS.

LETTER XLII.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 30 *Jan.* 1770.

IF we recollect in what manner the *King's Friends* have been conſtantly employed, we ſhall have no reaſon to be ſurpriſed at any condition of diſgrace, to which the once-reſpected name of Engliſhmen may be degraded. His Majeſty has no cares, but ſuch as concern the laws and conſtitution of this country. In his royal breaſt there is no room left for reſentment, no place for hoſtile ſentiments againſt the natural enemies of his crown. The ſyſtem of government is uniform.—Violence and oppreſſion at home can only be ſupported by treachery and ſubmiſſion abroad. When the civil rights of the people are daringly invaded on one ſide, what have we to expect, but that their political rights ſhould be deſerted and betrayed, in the ſame

ſame proportion, on the other? The plan of domeſtic policy, which has been invariably purſued, from the moment of his preſent Majeſty's acceſſion, engroſſes all the attention of his ſervants. They know that the ſecurity of their places depends upon their maintaining, at any hazard, the ſecret ſyſtem of the cloſet. A foreign war might embarraſs, an unfavourable event might ruin the miniſter, and defeat the deep-laid ſcheme of policy, to which he and his aſſociates owe their employments. Rather than ſuffer the execution of that ſcheme to be delayed or interrupted, the King has been adviſed to make a public ſurrender, a ſolemn ſacrifice, in the face of all Europe, not only of the intereſts of his ſubjects, but of his own perſonal reputation, and of the dignity of that crown, which his predeceſſors have worn with honour. Theſe are ſtrong terms, Sir, but they are ſupported by fact and argument.

The King of Great-Britain had been for ſome years in poſſeſſion of an iſland, to which, as the miniſtry themſelves have repeatedly aſſerted, the Spaniards had no claim of right. The importance of the place is not in queſtion. If it were, a better judgment might be formed of it from the opinion of Lord Anſon and Lord Egmont, and from the anxiety of the Spaniards, than from any fallacious inſinuations thrown out by men, whoſe intereſt it is to undervalue that property, which they are determined to relinquiſh. The pretenſions of Spain were a ſubject of negociation between the two courts. They had been diſcuſſed, but not admitted. The King of Spain, in theſe circumſtances, bids adieu to amicable negociation, and appeals

directly

directly to the ſword. The expedition againſt Port Egmont does not appear to have been a ſudden ill-concerted enterpriſe. It ſeems to have been conducted not only with the uſual military precautions, but in all the forms and ceremonies of war. A frigate was firſt employed to examine the ſtrength of the place. A meſſage was then ſent, demanding immediate poſſeſſion, in the Catholic King's name, and ordering our people to depart. At laſt a military force appears, and compels the garriſon to ſurrender. A formal capitulation enſues, and his Majeſty's ſhip, which might at leaſt have been permitted to bring home his troops immediately, is detained in port twenty days, and her rudder forcibly taken away. This train of facts carries no appearance of the raſhneſs or violence of a Spaniſh governor. On the contrary, the whole plan ſeems to have been formed and executed, in conſequence of deliberate orders, and a regular inſtruction from the Spaniſh court. Mr. Bucarelli is not a pirate, nor has he been treated as ſuch by thoſe who employed him. I feel for the honour of a gentleman, when I affirm that our King owes him a ſignal reparation.—Where will the humiliation of this country end! A King of Great Britain, not contented with placing himſelf upon a level with a Spaniſh governor, deſcends ſo low as to do a notorious injuſtice to that governor. As a ſalvo for his own reputation, he has been adviſed to traduce the character of a brave officer, and to treat him as a common robber, when he knew with certainty that Mr. Bucarelli had acted in obedience to his orders, and had done no more than his duty. Thus it happens

pens in private life, with a man who has no ſpirit nor ſenſe of honour.—One of his equals orders a ſervant to ſtrike him.—Inſtead of returning the blow to the maſter, his courage is contented with throwing an aſperſion, equally falſe and public, upon the character of the ſervant.

THIS ſhort recapitulation was neceſſary to introduce the conſideration of his Majeſty's ſpeech, of 13 November, 1770, and the ſubſequent meaſures of government. The exceſſive caution, with which the ſpeech was drawn up, had impreſſed upon me an early conviction, that no ſerious reſentment was thought of, and that the concluſion of the buſineſs, whenever it happened, muſt, in ſome degree, be diſhonourable to England. There appears through the whole ſpeech a guard and reſerve in the choice of expreſſion, which ſhews how careful the miniſtry were not to embarraſs their future projects by any firm or ſpirited declaration from the throne. When all hopes are loſt, his Majeſty tells his parliament, that he is preparing,—not for barbarous war, but (with all his mother's ſoftneſs,) *for a different Situation.*—An open hoſtility, authoriſed by the Catholic King, is called *an act of a governor.* This act, to avoid the mention of a regular ſiege and ſurrender, paſſes under the piratical deſcription of *ſeizing by force*; and the thing taken is deſcribed, not as a part of the King's territory or proper dominion, but merely as a *poſſeſſion*, a word expreſsly choſen in contradiction to, and excluſion of the idea of *right*, and to prepare us for a future ſurrender both of the right and of the poſſeſſion. Yet this ſpeech, Sir, cautious and equivocal as it is, cannot, by any ſophiſtry,

phiſtry, be accommodated to the meaſures, which have ſince been adopted. It ſeemed to promiſe, that whatever might be given up by ſecret ſtipulation, ſome care would be taken to ſave appearances to the public. The event ſhews us, that to depart, in the minuteſt article, from the nicety and ſtrictneſs of punctilio, is as dangerous to national honour, as to female virtue. The woman, who admits of one familiarity, ſeldom knows where to ſtop, or what to refuſe; and when the counſels of a great country give way in a ſingle inſtance,—when they once are inclined to ſubmiſſion, every ſtep accelerates the rapidity of the deſcent. The miniſtry themſelves, when they framed the ſpeech, did not foreſee, that they ſhould ever accede to ſuch an accommodation, as they have ſince adviſed their maſter to accept of.

THE King ſays, *The honour of my crown and the rights of my people are deeply affected.* The Spaniard, in his reply, ſays, *I give you back poſſeſſion, but I adhere to my claim of prior right, reſerving the aſſertion of it for a more favourable opportunity.*

THE ſpeech ſays, *I made an immediate demand of ſatisfaction, and, if that fails, I am prepared to do myſelf juſtice.* This immediate demand muſt have been ſent to Madrid on the 12th of September, or in a few days after. It was certainly refuſed, or evaded, and the King *has not* done himſelf juſtice.—When the firſt magiſtrate ſpeaks to the nation, ſome care ſhould be taken of his apparent veracity.

THE ſpeech proceeds to ſay, *I ſhall not diſcontinue my preparations until I have received proper reparation for the injury.* If this aſſurance may be relied on, what an enormous expence is entailed, *ſine die*, upon

this unhappy country! Reſtitution of a poſſeſſion, and reparation of a injury are as different in ſubſtance, as they are in language. The very act of reſtitution may contain, as in this inſtance it palpably does, a ſhameful aggravation of the injury. A man of ſpirit does not meaſure the degrees of an injury by the mere poſitive damage he has ſuſtained. He conſiders the principle on which it is founded; he reſents the ſuperiority aſſerted over him; and rejects with indignation the claim of right, which would force him to acknowledge.

The motives, on which the Catholic King makes reſtitution, are, if poſſible, more inſolent and diſgraceful to our Sovereign, than even the declaratory condition annexed to it. After taking four months to conſider, whether the expedition was undertaken by his own orders or not, he condeſcends to diſavow the enterprize, and to reſtore the iſland,—not from any regard to juſtice;—not from any regard he bears to his Britannic Majeſty, but merely *from the perſuaſion, in which he is, of the pacific ſentiments of the King of Great Britain.*—At this rate, if our King had diſcovered the ſpirit of a man,— if he had made a peremptory demand of ſatisfaction, the King of Spain would have given him a peremptory refuſal. But why this unreaſonable, this ridiculous mention of the King of Great Britain's pacific intentions? Have they ever been in queſtion? Was *He* the aggreſſor? Does he attack foreign powers without provocation? Does he even reſiſt, when he is inſulted? No, Sir, if any ideas of ſtrife or hoſtility have entered his royal mind, they have a very different direction.

reſtion. The enemies of England have nothing to fear from them.

After all, Sir, to what kind of diſavowal has the King of Spain at laſt conſented? Suppoſing it made in proper time, it ſhould have been accompanied with inſtant reſtitution; and if Mr. Bucarelli acted without orders he deſerved death. Now, Sir, inſtead of immediate reſtitution, we have a four months negociation, and the officer, whoſe act is diſavowed, returns to court, and is loaded with honours.

If the actual ſituation of Europe be conſidered, the treachery of the King's ſervants, particularly of Lord North, who takes the whole upon himſelf, wil appear in the ſtrongeſt colours of aggravation. Our allies were maſters of the Mediterranean. The King of France's preſent averſion from war, and the diſtraction of his affairs are notorious. He is now in a ſtate of war with his people. In vain did the Catholic King ſolicit him to take part in the quarrel againſt us. His finances were in the laſt diſorder, and it was probable that his troops might find ſufficient employment at home. In theſe circumſtances, we might have dictated the law to Spain. There are no terms, to which ſhe might not have been compelled to ſubmit. At the worſt, a war with Spain alone carries the faireſt promiſe of advantage. One good effect at leaſt would have been immediately produced by it. The deſertion of France would have irritated her ally, and in all probability have diſſolved the family compact. The ſcene is now fatally changed. The advantage is thrown away. The moſt favourable opportunity is loſt.—Hereafter we ſhall know the value of it. When

the French King is reconciled to his ſubjects; when Spain has compleated her preparations; when the collected ſtrength of the houſe of Bourbon attacks us at once, the King himſelf will be able to determine upon the wiſdom or imprudence of his preſent conduct. As far as the probability of argument extends, we may ſafely pronounce, that a conjuncture, which threatens the very being of this country, has been wilfully prepared and forwarded by our own miniſtry. How far the people may be animated to reſiſtance under the preſent adminiſtration, I know not; but this I know with certainty, that, under the preſent adminiſtration, or if any thing like it ſhould continue, it is of very little moment whether we are a conquered nation or not *.

HAVING travelled thus far in the high road of matter of fact, I may now be permitted to wander a little into the field of imagination. Let us baniſh from our minds the perſuaſion that theſe events have really happened in the reign of the beſt of

* The King's acceptance of the Spaniſh Ambaſſador's declaration, is drawn up in barbarous French, and ſigned by the Earl of Rochford. This diplomatic Lord has ſpent his life in the ſtudy and practice of *Etiquettes*, and is ſuppoſed to be a profound maſter of the ceremonies. I will not inſult him by any reference to grammar or common ſenſe, if he were even acquainted with the common forms of his office, I ſhould think him as well qualified for it, as any man in his Majeſty's ſervice.——The reader is requeſted to obſerve Lord Rochford's method of authenticating a public inſtrument. "En foi de "quoi, *moi* ſouſſigne, un des principaux Secretaires d' Etat S. M. B. "*ai* ſigne la preſente de ma ſignature ordinaire, et icelle fait appoſer "le cachet de *nos* Armes." In three lines there are no leſs than ſeven falſe concords. But the man does not even know the ſtile of his office;—If he had known it, he would have ſaid, "*nous*, ſouſſigne "Secretaire d' Etat de S. M. B. avons ſigne, &c.

princes.

princes. Let us conſider them as nothing more than the materials of a fable, in which we may conceive the Sovereign of ſome other country to be concerned. I mean to violate all the laws of probability, when I ſuppoſe that this imaginary King, after having voluntarily diſgraced himſelf in the eyes of his ſubjects, might return to a ſenſe of his diſhonour;—that he might perceive the ſnare laid for him by his miniſters, and feel a ſpark of ſhame kindling in his breaſt.—The part he muſt then be obliged to act, would overwhelm him with confuſion. To his parliament he muſt ſay, *I called you together to receive your advice, and have never aſked your opinion.*—To the merchant,—*I have diſtreſſed your commerce; I have dragged your ſeamen out of your ſhips, I have loaded you with a grievous weight of inſurances.*—To the landholder,—*I told you war was too probable, when I was determined to ſubmit to any terms of accommodation; I extorted new taxes from you before it was poſſible they could be wanted, and am now unable to account for the application of them.*—To the public creditor,—*I have delivered up your fortunes a prey to foreigners and to the vileſt of your fellow-ſubjects.* Perhaps this repenting Prince might conclude with one general acknowledgment to them all,—*I have involved every rank of my ſubjects in anxiety and diſtreſs, and have nothing to offer you in return, but the certainty of national diſhonour, an armed truce, and peace without ſecurity.*

If theſe accounts were ſettled, there would ſtill remain an apology to be made to his navy and to his army. To the firſt he would ſay, *you were once*

the terror of the world. But go back to your harbours. A man diſhonoured, as I am, has no uſe for your ſervice. It is not probable that he would appear again before his ſoldiers, even in the pacific ceremony of a review*. But wherever he appeared, the humiliating confeſſion would be extorted from him. *I have received a blow,—and had not ſpirit to reſent it. I demanded ſatisfaction, and have accepted a declaration, in which the right to ſtrike me again is aſſerted and confirmed.* His countenance at leaſt would ſpeak this language, and even his guards would bluſh for him.

BUT to return to our argument.—The miniſtry, it ſeems, are labouring to draw a line of diſtinction between the honour of the crown and the rights of the people. This new idea has yet been only ſtarted in diſcourſe, for in effect both objects have been equally ſacrificed. I neither underſtand the diſtinction, nor what uſe the miniſtry propoſe to make of it. The King's honour is that of his people. *Their* real honour and real intereſt are the ſame.—I am not contending for a vain punctilio. A clear, unblemiſhed character comprehends not only the integrity that will not offer, but the ſpirit that will not ſubmit to an injury; and whether it belongs to an individual or to a community, it is the foundation of peace, of independence, and of ſafety. Private credit is wealth;—public honour is ſecurity.—The feather that adorns the royal bird, ſupports his flight. Strip him of his plumage and you fix him to the earth. JUNIUS.

* A Miſtake. He appears before them every day, with the mark of a blow upon his face.—*prob pudor!*

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LETTER XLIII.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, *6 Feb.* 1771.

I HOPE your correſpondent *Junius* is better employed than in anſwering or reading the criticiſms of a news-paper. This is a taſk, from which, if he were inclined to ſubmit to it, his friends ought to relieve him. Upon this principle, I ſhall undertake to anſwer Anti-Junius; more, I believe, to his conviction than to his ſatisfaction. Not daring to attack the main body of *Junius*'s laſt letter, he triumphs in having, as he thinks, ſurpriſed an outpoſt, and cut off a detached argument, a mere ſtraggling propoſition. But even in this petty warfare, he ſhall find himſelf defeated.

JUNIUS does not ſpeak of the Spaniſh *nation* as the *natural enemies* of England. He applies that deſcription with the ſtricteſt truth and juſtice, to the Spaniſh *Court*. From the moment, when a Prince of the Houſe of Bourbon aſcended that throne, their whole ſyſtem of government was inverted and became hoſtile to this country. Unity of poſſeſſion introduced a unity of politics, and Lewis the fourteenth had reaſon when he ſaid to his grandſon, "*The Pyrenees are removed.*" The Hiſtory of the preſent century is one continued confirmation of the prophecy.

THE Aſſertion "*That violence and oppreſſion at* "*home can only be ſupported by treachery and ſub-* "*miſſion abroad,*" is applied to a free people, whoſe

rights are invaded, not to the government of a country, where deſpotic, or abſolute power is confeſſedly veſted in the prince; and with this application, the aſſertion is true. An abſolute monarch having no points to carry at home, will naturally maintain the honour of his crown in all his tranſactions with foreign powers. But if we could ſuppoſe the Sovereign of a free nation, poſſeſſed with a deſign to make himſelf abſolute, he would be inconſiſtent with himſelf if he ſuffered his projects to be interrupted or embarraſſed by a foreign war; unleſs that war tended, as in ſome caſes it might, to promote his principal deſign. Of the three exceptions to this general rule of conduct, (quoted by Anti-Junius) that of Oliver Cromwell is the only one in point. Harry the Eighth, by the ſubmiſſion of his parliament, was as abſolute a prince as Lewis the Fourteenth. Queen Elizabeth's government was not oppreſſive to the people; and as to her foreign wars, it ought to be conſidered that they were *unavoidable*. Tne national honour was not in queſtion. She was compelled to fight in defence of her own perſon and of her title to the crown. In the common cauſe of ſelfiſh policy, Oliver Cromwell ſhould have cultivated the friendſhip of foreign powers, or at leaſt have avoided diſputes with them, the better to eſtabliſh his tyranny at home. Had he been only a bad man, he would have ſacrificed the honour of the nation to the ſucceſs of his domeſtic policy. But, with all his crimes, he had the ſpirit of an Engliſhman. The conduct of ſuch a man muſt always be an exception to vulgar rules. He had abilities ſufficient to reconcile contradictions,

ons, and to make a great nation at the ſame moment unhappy and formidable. If it were not for the reſpect I bear the miniſter, I could name a man, who, without one grain of underſtanding, can do half as much as Oliver Cromwell.

WHETHER or no there be a *ſecret ſyſtem* in the cloſet, and what may be the object of it, are queſtions, which can only be determined by appearances, and on which every man muſt decide for himſelf.

THE whole plan of *Junius*'s letter proves that he himſelf makes no diſtinction between the real honour of the crown and the real intereſt of the people. In the climax, to which your correſpondent objects, *Junius* adopts the language of the Court, and, by that conformity, gives ſtrength to his argument. He ſays that, "*the King has not only ſacrificed the intereſts of his people, but,* (what was "likely to touch him more nearly,) *his perſonal "reputation and the dignity of his crown.*"

THE queries, put by *Anti-Junius*, can only be anſwered by the miniſtry. Abandoned as they are, I fancy they will not confeſs that they have for ſo many years, maintained poſſeſſion of another man's property. After admitting the aſſertion of the miniſtry—viz. *that the Spaniards had no rightful claim*, and after juſtifying them for ſaying ſo;—it is *his* buſineſs not *mine*, to give us ſome good reaſon for their *ſuffering the pretenſions of Spain to be a ſubject of negociation.* He admits the facts;—let him reconcile them if he can.

THE laſt paragraph brings us back to the original queſtion, whether the Spaniſh declaration contains

tains ſuch a ſatisfaction as the King of Great Britain ought to have accepted. This was the field, upon which he ought to have encountered *Junius* openly and fairly. But here he leaves the argument, as no longer defenſible. I ſhall therefore conclude with one general admonition to my fellow ſubjects; —that, when they hear theſe matters debated, they ſhould not ſuffer themſelves to be miſled by general declamations upon the conveniences of peace, or the miſeries of war. Between peace and war, abſtractedly, there is not, there cannot be a queſtion in the mind of a rational being. The real queſtions are, *Have we any ſecurity that the peace we have ſo dearly purchaſed will laſt a twelvemonth?* and, if not,—*have we, or have we not, ſacrificed the faireſt opportunity of making war with advantage?*

PHILO JUNIUS.

LETTER XLIV.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 22 *April*, 1771.

TO write for profit without taxing the preſs; —to write for fame and to be unknown;—to ſupport the intrigues of faction and to be diſowned, as a dangerous auxiliary, by every party in the kingdom, are contradictions, which the miniſter muſt reconcile, before I forfeit my credit with the public. I may quit the ſervice, but it would be abſurd to ſuſpect me of deſertion. The reputation of theſe papers is an honourable pledge for my attachment to the people. To ſacrifice a reſpected cha-

character, and to renounce the eſteem of ſociety, requires more than Mr. Wedderburne's reſolution; and though, in him, it was rather a profeſſion than a deſertion of his principles, [I ſpeak tenderly of this gentleman, for when treachery is in queſtion, I think we ſhould make allowances for a Scotchman,] yet we have ſeen him in the houſe of commons overwhelmed with confuſion, and almoſt bereft of his faculties.—But in truth, Sir, I have left no room for an accommodation with the piety of St. James's. My offences are not to be redeemed by recantation or repentance. On one ſide, our warmeſt patriots would diſclaim me as a burthen to their honeſt ambition. On the other, the vileſt proſtitution, if *Junius* could deſcend to it, would loſe its natural merit and influence in the cabinet, and treachery be no longer a recommendation to royal favour.

THE perſons, who, till within theſe few years, have been the moſt diſtinguiſhed by their zeal for high church and prerogative, are now, it ſeems, the great aſſertors of the privileges of the houſe of commons. This ſudden alteration of their ſentiments or language carries with it a ſuſpicious appearance. When I hear the undefined privileges of the popular branch of the legiſlature exalted by Tories and Jacobites, at the expence of thoſe ſtrict rights, which are known to the ſubject and limited by the laws, I cannot but ſuſpect, that ſome miſchievous ſcheme is in agitation, to deſtroy both law and privilege, by oppoſing them to each other. They who have uniformly denied the power of the whole legiſlature to alter the deſcent of the crown, and whoſe anceſtors, in rebellion againſt his Majeſty's family, have defended

fended that doctrine at the hazard of their lives, now tell us that privilege of parliament is the only rule of right, and the chief ſecurity of the public freedom.—I fear, Sir, that, while forms remain, there has been ſome material change in the ſubſtance of our conſtitution. The oppinions of theſe men were too abſurd to be eaſily renounced. Liberal doctrines are capable of improvement.—There are proſelites from atheiſm, but none from ſuperſtition.—If their preſent profeſſions were ſincere, I think they could not but be highly offended at ſeeing a queſtion, concerning parliamentary privilege, unneceſſarily ſtarted at a ſeaſon ſo unfavourable to the houſe of commons, and by ſo very mean and inſignificant a perſon as the minor *Onſlow*. They knew that the preſent houſe of commons, having commenced hoſtilities with the people, and degraded the authority of the laws by their own example, were likely enough to be reſiſted, *per fas & nefas*. If they were really friends to privilege, they would have thought the queſtion of right too dangerous to be hazarded at this ſeaſon, and, without the formality of a convention, would have left it undecided.

I HAVE been ſilent hitherto, though not from that ſhameful indifference about the intereſts of ſociety which too many of us profeſs, and call moderation. I confeſs, Sir, that I felt the prejudices of my education, in favour of a houſe of commons, ſtill hanging about me. I thought that a queſtion, between law and privilege, could never be brought to a formal deciſion, without inconvenience to the public ſervice, or a manifeſt diminution of legal liberty;—that it ought therefore to be carefully avoided: and when

when I ſaw that the violence of the houſe of commons had carried them too far to retreat, I determined not to deliver a haſty opinion upon a matter of ſo much delicacy and importance.

THE ſtate of things is much altered in this country, ſince it was neceſſary to protect our repreſentatives againſt the direct the power of the crown. We have nothing to apprehend from prerogative, but every thing from undue influence. Formerly it was the intereſt of the people, that the privileges of parliament ſhould be left unlimited and undefined. At preſent it is not only their intereſt, but I hold it to be eſſentially neceſſary to the preſervation of the conſtitution, that the privileges of parliament ſhould be ſtrictly aſcertained, and confined within the narroweſt bounds the nature of their inſtitution will admit of. Upon the ſame principle, on which I would have reſiſted prerogative in the laſt century, I now reſiſt privilege. It is indifferent to me, whether the crown, by its own immediate act, impoſes new, and diſpenſes with old laws, or whether the ſame arbitrary power produces the ſame effects through the medium of the houſe of commons. We truſted our repreſentatives with privileges for their own defence and ours. We cannot hinder their deſertion, but we can prevent their carrying over their arms to the ſervice of the enemy.—It will be ſaid, that I begin with endeavouring to reduce the argument concerning privilege to a mere queſtion of convenience;—that I deny at one moment what I would allow at another; and that to reſiſt the power of a proſtituted houſe of commons may eſtabliſh a precedent injurious to all future parliaments.—To this I anſwer

generally,

generally, that human affairs are in no inſtance governed by ſtrict poſitive right. If change of circumſtances were to have no weight in directing our conduct and opinions, the mutual intercourſe of mankind would be nothing more than a contention between poſitive and equitable right. Society would be a ſtate of war, and law itſelf would be injuſtice. On this general ground, it is highly reaſonable, that the degree of our ſubmiſſion to privileges, which have never been defined by any poſitive law, ſhould be conſidered as a queſtion of convenience, and proportioned to the confidence we repoſe in the integrity of our repreſentatives. As to the injury we may do to any future and more reſpectable houſe of commons, I own I am not now ſanguine enough to expect a more plentiful harveſt of parliamentary virtue in one year than in another. Our political climate is ſeverely altered; and, without dwelling upon the depravity of modern times, I think no reaſonable man will expect that, as human nature is conſtituted, the enormous influence of the crown ſhould ceaſe to prevail over the virtue of individuals. The miſchief lies too deep to be cured by any remedy, leſs than ſome great convulſion, which may either carry back the conſtitution to its original principles, or utterly deſtroy it. I do not doubt that, in the firſt ſeſſion after the next election, ſome popular meaſures may be adopted. The preſent houſe of commons have injured themſelves by too early and public profeſſion of their principles; and if a ſtrain of proſtitution, which had no example, were within the reach of emulation, it might be imprudent to hazard the experiment too ſoon. But after all, Sir,

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it is very immeterial whether a houſe of commons ſhall preſerve their virtue for a week, a month, or a year. The influence, which makes a ſeptennial parliament dependant upon the pleaſure of the crown, has a permanent operation, and cannot fail of ſucceſs.—My premiſes, I know, will be denied in argument, but every man's conſcience tells him they are true. It remains then to be conſidered, whether it be for the intereſt of the people that privilege of parliament (which *, in reſpect to the purpoſes, for which it has hitherto been acquieſced under, is merely nominal) ſhould be contracted within ſome certain limits, or whether the ſubject ſhall be left at the mercy of a power, arbitrary upon the face of it, and notoriouſly under the direction of the crown.

I DO not mean to decline the queſtion of *right*. On the contrary, Sir, I join iſſue with the advocates for privilege, and affirm, that, "excepting the caſes, "wherein the houſe of commons are a court of ju- "dicature, [to which, from the nature of their "office, a coercive power muſt belong] and except- "ing ſuch contempts as immediately interrupt their "proceedings, they have no legal authority to im- "priſon any man for any ſuppoſed violation of pri- "vilege whatſoever."—It is not pretended that pri-

* "The neceſſity of ſecuring the houſe of commons againſt the "King's power, ſo that no interruption might be given either to the "attendance of the members in parliament or the freedom of debate, "was the foundation of parliamentary privilege; and we may obſerve, "in all the addreſſes of new appointed Speakers to the Sovereign, the "utmoſt privilege they demand is liberty of ſpeech and freedom "from arreſts. The very word privilege, means no more than im- "munity, or a ſafeguard to the party who poſſeſſes it, and can never "be conſtrued into an active power of invading the rights of others."

vilege,'

vilege, as now claimed, has ever been defined or confirmed by ſtatute; neither can it be ſaid, with any colour of truth, to be a part of the common law of England, which had grown into preſcription, long before we knew of the exiſtence of a houſe of commons. As for the law of parliament it is only another name for the privilege in queſtion; and ſince the power of creating new privileges has been formally renounced by both houſes,—ſince there is no code, in which we can ſtudy the law of parliament, we have but one way left to make ourſelves acquainted with it;—that is, to compare the nature of the inſtitution of a houſe of commons, with the facts upon record. To eſtabliſh a claim of privilege in either houſe, and to diſtinguiſh original right from uſurpation, it muſt appear that it is indiſpenſably neceſſary for the performance of the duty they are employed in, and alſo that it has been uniformly allowed. From the firſt part of this deſcription it follows clearly, that whatever privilege does of right belong to the preſent houſe of commons, did equally belong to the firſt aſſembly of their predeceſſors, was as completly veſted in them, and might have been exerciſed in the ſame extent. From the ſecond we muſt infer, that privileges, which for ſeveral centuries, were not only never allowed, but never even claimed by the houſe of commons, muſt be founded upon uſurpation. The conſtitutional duties of a houſe of commons, are not very complicated nor myſterious. They are to propoſe or aſſent to wholeſome laws for the benefit of the nation. They are to grant the neceſſary aids to the king;—petition for the redreſs of grievances, and proſecute high treaſon or high crimes

crimes againſt the ſtate. If unlimited privilege be neceſſary to the performance of theſe duties, we have reaſon to conclude that, for many centuries after the inſtitution of the houſe of commons, they were never performed. I am not bound to prove a negative, but I appeal to the Engliſh hiſtory when I affirm that, with the exceptions already ſtated, (which yet I might ſafely relinquiſh) there is no precedent, from the year 1265 to the death of Queen Elizabeth, of the houſe of commons having impriſoned any man (not a member of their houſe) for contempt or breach of privilege. In the moſt flagrant caſes, and when their acknowledged privileges were moſt groſsly violated, the *poor Commons*, as they then ſtiled themſelves, never took the power of puniſhment into their own hands. They either ſought redreſs by petition to the King, or, what is more remarkable, applied for juſtice to the houſe of lords; and when ſatisfaction was denied them or delayed, their only remedy was to refuſe proceeding upon the King's buſineſs. So little conception had our anceſtors of the monſtrous doctrines, now maintained concerning privilege, that, in the reign of Elizabeth, even liberty of ſpeech, the vital principle of a deliberative aſſembly, was reſtrained, by the Queen's authority, to a ſimple *aye* or *no*, and this reſtriction, though impoſed upon three ſucceſſive parliaments*, was never once diſputed by the houſe of commons.

I KNOW there are many precedents of arbitrary commitments for contempt. But, beſides that they are of too modern a date to warrant a preſumption

* In the years 1593—1597—and 1601.

that ſuch a power was originally veſted in the houſe of commons,—*Fact* alone does not conſtitute *Right*. If it does, general warrants were lawful.—An ordinance of the two houſes has a force equal to law; and the criminal juriſdiction aſſumed by the Commons in 1621, in the caſe of Edward Lloyd is a good precedent, to warrant the like proceedings againſt any man, who ſhall unadviſedly mention the folly of a King, or the ambition of a Princeſs.—The truth is, Sir, that the greateſt and moſt exceptionable part of the privileges now contended for, were introduced and aſſerted by a houſe of commons which aboliſhed both monarchy and peerage, and whoſe proceedings, although they ended in one glorious act of ſubſtantial juſtice, could no way be reconciled to the forms of the conſtitution. Their ſucceſſors profited by the example, and confirmed their power by a moderate or a popular uſe of it. Thus it grew by degrees, from a notorious innovation at one period, to be tacitly admitted as the privilege of parliament at another.

If however it could be proved, from conſiderations of neceſſity or convenience, that an unlimited power of commitment ought to be intruſted to the houſe of commons, and that *in fact* they have exerciſed it without oppoſition, ſtill, in contemplation of law, the preſumption is ſtrongly againſt them. It is a leading maxim of the laws of England (and, without it, all laws are nugatory) that there is no right without a remedy, nor any legal power without a legal courſe to carry it into effect. Let the power, now in queſtion, be tried by this rule. The Speaker iſſues his warrant of attachment. The party

party attached either reſiſts force with force, or appeals to a magiſtrate, who declares the warrant illegal, and diſcharges the priſoner. Does the law provide no legal means for inforcing a legal warrant? Is there no regular proceeding pointed out in our law books to aſſert and vindicate the authority of ſo high a court as the houſe of commons? The queſtion is anſwered directly by the fact. Their unlawful commands are reſiſted, and they have no remedy. The impriſonment of their own members is revenge indeed, but it is no aſſertion of the privilege they contend for *. Their whole proceeding ſtops, and there they ſtand, aſhamed to retreat, and unable to advance. Sir, theſe ignorant men ſhould be informed that the execution of the laws of England is not left in this uncertain, defenceleſs condition. If the proceſs of the courts of Weſtminſter-hall be reſiſted, they have a direct courſe, ſufficient to inforce ſubmiſſion. The court of King's Bench commands the Sheriff to raiſe the *poſſe comitatus*. The courts of Chancery and Exchequer iſſue a *writ of rebellion*, which muſt alſo be ſupported, if neceſſary, by the power of the county.—To whom will our honeſt repreſentatives direct *their* writ of rebellion? The guards, I doubt not, are willing enough to be employed, but they know nothing of the doctrine of writs, and may think it neceſſary to wait for a letter from Lord Barrington.

* Upon their own principles, they ſhould have committed Mr. Wilkes, who had been guilty of a greater offence than even the Lord-Mayor or Alderman Oliver. But after repeatedly ordering him to attend, they at laſt adjourned beyond the day appointed for his attendance, and by this mean, pitiful evaſion, gave up the point.—Such is the force of conſcious guilt!

It may now be objected to me, that my arguments prove too much; for that certainly there may be inſtances of contempt and inſult to the houſe of commons, which do not fall within my own exceptions, yet, in regard to the dignity of the houſe, ought not to paſs unpuniſhed. Be it ſo.—The courts of criminal juriſdiction are open to proſecutions, which the Attorney General may commence by information or indictment. A libel, tending to aſperſe or vilify the houſe of commons, or any of their members, may be as ſeverely puniſhed in the court of King's Bench, as a libel upon the King. Mr. De Grey thought ſo, when he drew up the information upon my letter to his Majeſty, or he had no meaning in charging it to be a ſcandalous libel upon the houſe of commons. In *my* opinion, they would conſult their real dignity much better, by appealing to the laws when they are offended, than by violating the firſt principle of natural juſtice, which forbids us to be judges, when we are parties to the cauſe *.

I do not mean to purſue them through the remainder of their proceedings. In their firſt reſolutions, it is poſſible they might have been deceived by ill-conſidered precedents. For the reſt, there is

* "If it be demanded, in caſe a ſubject ſhould be committed by "either houſe, for a matter manifeſtly out of their juriſdiction, what "remedy can he have? I anſwer, that it cannot well be imagined "that the law, which favours nothing more than the liberty of the "ſubject, ſhould give us a remedy againſt commitments by the King "himſelf, appearing to be illegal, and yet give us no manner of re-"dreſs againſt a commitment by our fellow ſubjects, equally appear-"ing to be unwarranted. But as this is a caſe, which I am perſuad-"ed will never happen, it ſeems needleſs over nicely to examine it.—*Hawkins* 2. 110."——*N. B. He was a good lawyer, but no prophet.*

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no colour of palliation or excuſe. They have adviſed the King to reſume a power of diſpenſing with the laws by royal proclamation *; and Kings we ſee are ready enough to follow ſuch advice.—By mere violence, and without the ſhadow of right, they have expunged the record of a judicial proceeding †. Nothing remained, but to attribute to their own vote a power of ſtopping the whole diſtribution of criminal and civil juſtice.

THE public virtues of the chief magiſtrate have long ſince ceaſed to be in queſtion. But it is ſaid that he has private good qualities, and I myſelf have been ready to acknowledge them. They are now brought to the teſt. If he loves his people, he will diſſolve a parliament, which they can never confide in or reſpect.—If he has any regard for his own honour, he will diſdain to be any longer connected with ſuch abandoned proſtitution. But if it were conceivable, that a King of this country had loſt all ſenſe of perſonal honour, and all concern for the welfare of his ſubjects, I confeſs, Sir, I ſhould be contented to renounce the forms of the

* That their practice might be every way conformable to their principles, the houſe proceeded to adviſe the crown to publiſh a proclamation univerſally acknowledged to be illegal. Mr. Moreton publicly proteſted againſt it before it was iſſued; and Lord Mansfield, though not ſcrupulous to an extreme, ſpeaks of it with horror. It is remarkable enough that the very men, who adviſed the proclamation, and who hear it arraigned every day both within doors and without, are not daring enough to utter one word in its defence, nor have they ventured to take the leaſt notice of Mr. Wilkes for diſcharging the perſons apprehended under it.

† Lord Chatham very properly called this the act of a mob, not of a ſenate.

conſtitution once more, if there were no other way to obtain ſubſtantial juſtice for the people *.

JUNIUS.

LETTER XLV.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 1 *May* 1771.

THEY, who object to detached parts of Junius's laſt letter, either do not mean him fairly, or have not conſidered the general ſcope and courſe of his argument.—There are degrees in all the private vices.—Why not in public proſtitution?—The influence of the crown naturally makes a ſeptennial

* When Mr. Wilkes was to be puniſhed, they made no ſcruple about the privileges of parliament; and although it was as well known as any matter of public record and uninterrupted cuſtom could be, *that the members of either houſes are privileged except in caſe of treaſon, felony, or breach of peace*, they declared without heſitation *that privilege of parliament did not extend to the caſe of a ſeditious libel*; and undoubtedly they would have done the ſame if Mr. Wilkes had been proſecuted for any other miſdemeanor whatſoever. The miniſtry are of a ſudden grown wonderfully careful of privileges, which their predeceſſors were as ready to invade. The known laws of the land, the rights of the ſubject, the ſanctity of charters, and the reverence due to our magiſtrates, muſt all give way, without queſtion or reſiſtance, to a privilege of which no man knows either the origin or the extent. The houſe of commons judge of their own privileges without appeal;—they may take offence at the moſt innocent action, and impriſon the perſon who offends them, during their arbitrary will and pleaſure. The party has no remedy;—he cannot appeal from their juriſdiction; and if he queſtions the privilege, which he is ſuppoſed to have violated, it becomes an aggravation of his offence. Surely this doctrine is not to be found in Magna Charta. If it be admitted without limitation, I affirm that there is neither law nor liberty in this kingdom. We are the ſlaves of the houſe of commons, and, through them, we are the ſlaves of the King and his miniſters. *Anonymus.*

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parliament dependent.—Does it follow that every houſe of commons will plunge at once into the *loweſt depths* of proſtitution?—Junius ſuppoſes that the preſent houſe of commons, in going ſuch enormous lengths, have been *imprudent to themſelves*, as well as wicked to the public;—that their example is *not within the reach of emulation*;—and that, in the firſt ſeſſion after the next election, *ſome* popular meaſures may probably be adopted. He does not expect that a diſſolution of parliament will deſtroy corruption, but that at leaſt it will be a check and terror to their ſucceſſors, who will have ſeen that, *in flagrant caſes*, their conſtituents, *can* and *will* interpoſe with effect. —After all, Sir, will you not endeavour to remove or alleviate the moſt dangerous ſymptoms, becauſe you cannot eradicate the diſeaſe? Will you not puniſh *treaſon* or *parricide*, becauſe the ſight of a gibbet does not prevent highway robberies? When the main argument of Junius is admitted to be unanſwerable, I think it would become the minor critic, who hunts for blemiſhes, to be a little more diſtruſtful of his own ſagacity.—The other objection is hardly worth an anſwer. When Junius obſerves that Kings are ready enough to follow *ſuch* advice, he does not mean to inſinuate that, if the advice of parliament were good, the king would be ſo ready to follow it.

PHILO JUNIUS.

LETTER XLVI.

ADDRESSED TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 22 *May*, 1771.

VERY early in the debate upon the deciſion of the Middleſex election, it was well obſerved by *Junius*, that the houſe of commons had not only exceeded their boaſted precedent of the expulſion and ſubſequent incapacitation of Mr. Walpole, but that they had not even adhered to it ſtrictly as far as it went. After convicting Mr. Dyſon of giving a falſe quotation from the journals, and having explained the purpoſe, which that contemptible fraud was intented to anſwer, he proceeds to ſtate the vote itſelf, by which Mr. Walpole's ſuppoſed incapacity was declared,—viz. "Reſolved, That Robert Walpole, "Eſq; having been this ſeſſion of parliament com-"mitted priſoner to the Tower, and expelled this "houſe for a high breach of truſt in the execution of "his office, and notorious corruption when ſecre-"tary at war, was and is incapable of being elected "a member to ſerve in this preſent parliament."—And then obſerves that, from the terms of the vote, we have no right to annex the incapacitation to the *expulſion* only, for that, as the propoſition ſtands, it muſt ariſe equally from the expulſion and the commitment to the Tower. I believe, Sir, no man, who knows any thing of dialectics, or who underſtands Engliſh, will diſpute the truth and fairneſs of this conſtruction. But *Junius* has a great authority to ſupport him, which, to ſpeak with the Duke of Grafton,

Grafton, I accidentally met with this morning in the courſe of my reading. It contains an admonition, which cannot be repeated too often. Lord Sommers, in his excellent tract upon the rights of the people, after reciting the votes of the convention, of the 28th of January, 1689, viz.—"That King "James the Second, having endeavoured to ſubvert "the conſtitution of this kingdom by breaking the "original contract between King and people; and "by the advice of Jeſuits and other wicked perſons "having violated the fundamental laws, and having "withdrawn himſelf out of this kingdom, hath ab-"dicated the government, &c."—makes this obſervation upon it. "The word *abdicated* relates to "*all* the clauſes aforegoing, as well as to his deſert-"ing the kingdom, or elſe they would have been "wholly in vain." And that there might be no pretence for confining the *abdication* merely to the *withdrawing*, Lord Sommers farther obſerves, *That King James, by refuſing to govern us according to that law, by which he held the crown, did implicitly renounce his title to it.*

If *Junius*'s conſtruction of the vote againſt Mr. Walpole be now admitted, (and indeed I cannot comprehend how it can honeſtly be diſputed) the advocates of the houſe of commons muſt either give up their precedent entirely, or be reduced to the neceſſity of maintaining one of the groſſeſt abſurdities imaginable, viz. "That a commitment to the "Tower is a conſtituent part of, and contributes "half at leaſt to the incapacitation of the perſon who "ſuffers it."

I NEED not make any excuſe for endeavouring to keep

keep alive the attention of the public to the deciſion of the Middleſex election. The more I conſider it, the more I am convinced that, as a *fact*, it is indeed highly injurious to the rights of the people; but that, as a *precedent*, it is one of the moſt dangerous that ever was eſtabliſhed againſt thoſe who are to come after us. Yet I am ſo far a moderate man, that I verily believe the majority of the houſe of commons, when they paſſed this dangerous vote, neither underſtood the queſtion, nor knew the conſequence of what they were doing. Their motives were rather deſpicable than criminal in the extreme. One effect they certainly did not foreſee. They are now reduced to ſuch a ſituation, that if a member of the preſent houſe of commons, were to conduct himſelf ever ſo improperly, and in reality deſerved to be ſent back to his conſtituents with a mark of diſgrace, they would not dare to expel him; becauſe they know that the people, in order to try again the great queſtion of right, or to thwart an odious houſe of commons, would probably overlook his immediate unworthineſs, and return the ſame perſon to parliament. —But in time, the precedent will gain ſtrength. A future houſe of commons will have no ſuch apprehenſions, conſequently will not ſcruple to follow a precedent, which they did not eſtabliſh. The miſer himſelf ſeldom lives to enjoy the fruit of his extortion; but his heir ſucceeds him of courſe, and takes poſſeſſion without cenſure. No man expects him to make reſtitution, and no matter for his title, he lives quietly upon the eſtate.

PHILO JUNIUS.

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LETTER XLVII.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 25 *May*, 1771.

I CONFESS my partiality to *Junius*, and feel a conſiderable pleaſure in being able to communicate any thing to the public in ſupport of his opinions. The doctrine laid down in his laſt letter concerning the power of the houſe of commons to commit for contempt, is not ſo new as it appeared to many people, who, dazzled with the name of *privilege*, had never ſuffered themſelves to examine the queſtion fairly. *In the courſe of my reading this morning*, I met with the following paſſage in the journals of the houſe of commons. (Vol. 1ſt. page 603.) Upon occaſion of a juriſdiction unlawfully aſſumed by the houſe in the year 1621, Mr. Attorney-General *Noye* gave his opinion as follows. "No doubt but, in ſome "caſes, this houſe may give judgment;—in matters "of returns, and concerning members of our houſe, "or falling out in our view in parliament; but, for "foreign matters, knoweth not how we can judge "it.—Knoweth not that we have been uſed to give "judgment in any caſe, but thoſe before-menti-"oned."

SIR Edward Coke, upon the ſame ſubject, ſays, (page 604) "No queſtion but this is a houſe of re-"cord, and that it hath power of judicature in ſome "caſes;—have power to judge of returns and "members of our houſe; one, no member, offend-

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"ing out of the parliament, *when he came hither and* "*juſtified it*, was cenſured for it."

Now, Sir, if you will compare the opinion of theſe great ſages of the law with *Junius*'s doctrine, you will find they tally exactly.—He allows the power of the houſe to commit their own members; (which however they may groſsly abuſe.) He allows their power in caſes where they are acting as a court of judicature, viz. elections, returns, &c.—and he allows it in ſuch contempts as immediately interrupt their proceedings, or, as Mr. Noye expreſſes it, *falling out in their view in parliament.*

They, who would carry the privileges of parliament farther than *Junius*, either do not mean well to the public, or know not what they are doing. The government of England is a government of law. We betray ourſelves, we contradict the ſpirit of our laws, and we ſhake the whole ſyſtem of Engliſh juriſprudence, whenever we intruſt a diſcretionary power over the life, liberty, or fortune of the ſubject, to any man, or ſet of men whatſoever, upon a preſumption that it will not be abuſed.

PHILO JUNIUS.

LETTER XLVIII.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 28 *May*, 1771.

ANY man, who takes the trouble of peruſing the journals of the houſe of commons, will ſoon be convinced, that very little, if any regard at all,

all, ought to be paid to the reſolutions of one branch of the legiſlature, declaratory of the law of the land, or even of what they call the law of parliament. It will appear that theſe reſolutions have no one of the properties, by which, in this country, particularly, *law* is diſtinguiſhed from mere *will* and *pleaſure*; but that, on the contrary, they bear every mark of a power arbitrarily aſſumed and capriciouſly applied:—That they are uſually made in times of conteſt, and to ſerve ſome unworthy purpoſe of paſſion or party;—that the law is ſeldom declared until *after* the fact, by which it is ſuppoſed to be violated;—that legiſlation and juriſdiction are united in the ſame perſons, and exerciſed at the ſame moment;—and that a court, from which there is no appeal, aſſumes an *original* juriſdiction in a criminal caſe;—in ſhort, Sir, to collect a thouſand abſurdities into one maſs, "we have a law, which "cannot be known becauſe it is *ex poſt facto*, the "party is both legiſlator and judge, and the juriſ-"diction is without appeal." Well might the judges ſay, *The law of parliament is above us.*

You will not wonder, Sir, that, with theſe qualifications, the declaratory reſolutions of the houſe of commons ſhould appear to be in perpetual contradiction, not only to common ſenſe and to the laws we are acquainted with, (and which alone we can obey) but even to one another. I was led to trouble you with theſe obſervations by a paſſage, which, to ſpeak in luteſtring, I *met with this morning in the courſe of my reading*, and upon which I mean to put a queſtion to the advocates for privilege.—On the 8th of March 1704, (vide Journals,

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Vol. 14. p. 565.) the houſe thought proper to come to the following reſolutions.—1. "That no commoner of England, committed by the houſe of commons for breach of privilege or contempt of that houſe, ought to be, by any writ of *Habeas Corpus*, made to appear in any other place, or before any other judicature, during that ſeſſion of parliament, wherein ſuch perſon was ſo committed."

2. "THAT the Serjeant at Arms, attending this houſe do make no return of or yield any obedience to the ſaid writs of *Habeas Corpus*, and for ſuch his refuſal, that he have the protection of the houſe of commons"*.

WELBORE Ellis, What ſay you? Is this the law of parliament or is it not? I am a plain man, Sir, and cannot follow you through the phlegmatic forms of an oration. Speak out, Grildrig,—ſay yes, or no.—If you ſay *yes*, I ſhall then inquire by what authority Mr. De Grey, the honeſt Lord Mansfield, and the Barons of the Exchequer, dared to grant a writ of *Habeas Corpus* for bringing the bodies of the Lord Mayor and Mr. Oliver before them, and why the Lieutenant of the Tower made any return to a writ, which the houſe of commons had, in a ſimilar

* If there be in reality any ſuch law in England, as the *law of parliament*, which, (under the exceptions ſtated in my letter of privilege) I confeſs, after long deliberation, I very much doubt, it certainly is not conſtituted by, nor can it be collected from the reſolutions of either houſe, whether *enacting* or *declaratory*. I deſire the reader will compare the above reſolution of the year 1704, with the following of the 3d of April, 1628.—"*Reſolved*, That the writ of "Habeas Corpus cannot be denied, but ought to be granted to *every* "man, that is committed or detained in priſon, or otherwiſe reſtrained, by the command of the King, the Privy Council, *or any other*, "he praying the ſame."

inſtance,

inſtance, declared to be unlawful.—If you ſay *no*, take care you do not at once give up the cauſe, in ſupport of which you have ſo long and ſo laboriouſly tortured your underſtanding. Take care you do not confeſs that there is no teſt by which we can diſtinguiſh,—no evidence by which we can determine what is, and what is not the law of parliament. The reſolutions I have quoted ſtand upon your journals, uncontroverted and unrepealed;—they contain a declaration of the law of parliament by a court, competent to the queſtion, and whoſe deciſion, as you and Lord Mansfield ſay, muſt be law, becauſe there is no appeal from it, and they were made, not haſtily, but after long deliberation upon a conſtitutional queſtion.—What farther ſanction or ſolemnity will you annex to any reſolution of the preſent houſe of commons, beyond what appears upon the face of thoſe two reſolutions, the legality of which you now deny? If you ſay that parliaments are not infallible, and that Queen Anne, in conſequence of the violent proceedings of that houſe of commons, was obliged to prorogue and diſſolve them, I ſhall agree with you very heartily, and think that the precedent ought to be followed immediately. But you, Mr. Ellis, who hold this language, are inconſiſtent with your own principles. You have hitherto maintained that the houſe of commons are the ſole judges of their own privileges, and that their declaration does, *ipſo facto*, conſtitute the law of parliament; yet now you confeſs that parliaments are fallible, and that their reſolutions may be illegal, conſequently that their reſolutions *do not* conſtitute the law of parliament. When the

the King was urged to diſſolve the preſent parliament, you adviſed him to tell his ſubjects, that *he was careful not to aſſume any of thoſe powers, which the conſtitution had placed in other hands*, &c. Yet Queen Anne, it ſeems, was juſtified in exerting her prerogative to ſtop a houſe of commons, whoſe proceedings, compared with thoſe of the aſſembly, of which you are a moſt worthy member, were the perfection of juſtice and reaſon.

In what a labyrinth of nonſenſe does a man involve himſelf who labours to maintain falſehood by argument? How much better would it become the dignity of the houſe of commons to ſpeak plainly to the people, and tell us at once, *that their will muſt be obeyed, not becauſe it is lawful and reaſonable, but becauſe it is their will.* Their conſtituents would have a better opinion of their candour, and, I promiſe you, not a worſe opinion of their integrity.

PHILO JUNIUS.

LETTER XLIX.

TO HIS GRACE THE DUKE OF GRAFTON.

MY LORD, 22 *June*, 1771.

THE profound reſpect I bear to the gracious Prince, who governs this country with no leſs honour to himſelf than ſatisfaction to his ſubjects, and who reſtores you to your rank under his ſtandard, will ſave you from a multitude of reproaches. The attention I ſhould have paid to your failings is involuntarily attracted to the hand that rewards them; and though I am not ſo partial to the

royal

royal judgment, as to affirm, that the favour of a King can remove mountains of infamy, it ſerves to leſſen at leaſt, for undoubtedly it divides the burthen. While I remember how much is due to *his* ſacred character, I cannot, with any decent appearance of propriety, call you the meaneſt and the baſeſt fellow in the kingdom. I proteſt, my Lord, I do not think you ſo. You will have a dangerous rival, in that kind of fame to which you have hitherto ſo happily directed your ambition, as long as there is one man living, who thinks you worthy of his confidence, and fit to be truſted with any ſhare in his government. I confeſs you have great intrinſic merit; but take care you do not value it too highly. Conſider how much of it would have been loſt to the world, if the King had not graciouſly affixed his ſtamp, and given it currency among his ſubjects. If it be true that a virtuous man, ſtruggling with adverſity, be a ſcene worthy of the gods, the glorious contention, between you and the beſt of Princes, deſerves a circle, equally attentive and reſpectable. I think I already ſee other gods riſing from the earth to behold it.

But this language is too mild for the occaſion. The King is determined, that our abilities ſhall not be loſt to ſociety. The perpetration and deſcription of new crimes will find employment for us both. My Lord, if the perſons, who have been loudeſt in their profeſſions of patriotiſm, had done their duty to the public with the ſame zeal and perſeverance that I did, I will not aſſert that government would have recovered its dignity, but at leaſt our gracious Sovereign muſt have ſpared his ſub-

jects this laſt inſult *, which, if there be any feeling left among us, they will reſent more than even the real injuries they received from every meaſure of your Grace's adminiſtration. In vain would he have looked round him for another character ſo conſummate as yours. Lord Mansfield ſhrinks from his principles;—his ideas of government perhaps go farther than your own, but his heart diſgraces the theory of his underſtanding.—Charles Fox is yet in bloſſom; and as for Mr. Wedderburne, there is ſomething about him, which even treachery cannot truſt. For the preſent therefore, the beſt of Princes muſt have contented himſelf with Lord Sandwich.—You would long ſince have received your final diſmiſſion and reward; and I, my Lord, who do not eſteem you the more for the high office you poſſeſs, would willingly have followed you to your retirement. There is ſurely ſomething ſingularly benevolent in the character of our Sovereign. From the moment he aſcended the throne, there is no crime, of which human nature is capable, (and I call upon the Recorder to witneſs it) that has not appeared venial in his ſight. With any other Prince, the ſhameful deſertion of him, in the midſt of that diſtreſs, which you alone had created,—in the very criſis of danger, when he fancied he ſaw the throne already ſurrounded by men of virtue and abilities, would have out-weighed the memory of your former ſervices. But his Majeſty is full of juſtice, and underſtands the doctrine of compenſations. He remembers with gratitude how ſoon you had accommodated your morals to the neceſſity of

* The Duke was lately appointed Lord Privy Seal.

his

his ſervice;—how chearfully you had abandoned the engagements of private friendſhip, and renounced the moſt ſolemn profeſſions to the public. The ſacrifice of Lord Chatham was not loſt upon him. Even the cowardice and perfidy of deſerting him may have done you no diſſervice in his eſteem. The inſtance was painful, but the principle might pleaſe.

You did not neglect the magiſtrate, while you flattered the *man*. The expulſion of Mr. Wilkes predetermined in the cabinet;—the power of depriving the ſubject of his birthright, attributed to a reſolution of one branch of the legiſlature;—the conſtitution impudently invaded by the houſe of commons;—the right of defending it treacherouſly renounced by the houſe of lords.—Theſe are the ſtrokes, my Lord, which, in the preſent reign, recommend to office, and conſtitute a miniſter. They would have determined your Sovereign's judgment, if they had made no impreſſion upon his heart. We need not look for any other ſpecies of merit to account for his taking the earlieſt opportunity to recall you to his councils. Yet you have other merit in abundance.—Mr. Hine,—the Duke of Portland,—and Mr. Yorke.—Breach of truſt, robbery, and murder. You would think it a compliment to your gallantry, if I added rape to the catalogue;—but the ſtile of your amours ſecures you from reſiſtance. I know how well theſe ſeveral charges have been defended. In the firſt inſtance, the breach of truſt is ſuppoſed to have been its own reward. Mr. Bradſhaw affirms upon his honour, (and ſo may the gift of ſmiling never depart from him!)

that you reſerved no part of Mr. Hine's purchaſe-money for your own uſe, but that every ſhilling of it was ſcrupulouſly paid to governor Burgoyne.—Make haſte, my Lord,—another patent, applied in time, may keep the OAKS * in the family.—If not, Birnham Wood, I fear, muſt come to the *Macaroni*.

THE Duke of Portland was your earlieſt friend. In defence of his property he had nothing to plead, but equity againſt Sir James Lowther, and preſcription againſt the crown. You felt for your friend; *but the law muſt take its courſe*. Poſterity will ſcarce believe that Lord Bute's ſon-in-law had barely intereſt enough at the treaſury to get his grant compleated before the general election †.

ENOUGH has been ſaid of that deteſtable tranſaction, which ended in the death of Mr. Yorke,—I cannot ſpeak of it without horror and compaſſion. To excuſe your ſelf, you publicly impeach your accomplice, and to *his* mind perhaps the accuſation may be flattery. But in murder you are both principals. It was once a queſtion of emulation, and if the event had not diſappointed the immediate ſchemes of the cloſet, it might ſtill have been a hopeful ſubject of jeſt and merriment between you.

THIS letter, my Lord, is only a preface to my future correſpondence. The remainder of the ſummer ſhall be dedicated to your amuſement. I mean

* A ſuperb villa of Col. Burgoyne, about this time advertiſed for ſale.

† It will appear by a ſubſequent letter, that the Duke's precipitation, proved fatal to the grant. It looks like the hurry and confuſion of a young highwayman, who takes a few ſhillings, but leaves the purſe and watch behind him.—And yet the Duke was an old offender!

now and then to relieve the ſeverity of your morning ſtudies, and to prepare you for the buſineſs of the day. Without pretending to more than Mr. Bradſhaw's ſincerity, you may rely upon my attachment, as long as you are in office.

WILL your Grace forgive me, if I venture to expreſs my anxiety for a man, whom I know you do not love? My Lord Weymouth has cowardice to plead, and a deſertion of a later date than your own. You know the privy ſeal was intended for him; and if you conſider the dignity of the poſt he deſerted, you will hardly think it decent to quarter him on Mr. Rigby. Yet he muſt have bread, my Lord; —or rather he muſt have wine. If you deny him the cup, there will be no keeping him within the pale of the miniſtry.

JUNIUS.

LETTER L.

TO HIS GRACE THE DUKE OF GRAFTON.

MY LORD, 9 *July*, 1771.

THE influence of your Grace's fortune ſtill ſeems to preſide over the treaſury.—The genius of Mr. Bradſhaw inſpires Mr. Robinſon*. How remarkable it is, (and I ſpeak of it not as matter of reproach, but as ſomething peculiar to your character) that you have never yet formed a friendſhip, which has not been fatal to the object of it, nor adopted a cauſe, to which, one way or other, you have not done miſchief. Your attachment is infa-

* By an intercepted letter from the Secretary of the Treaſury it appeared, *that the friends of government were to be very active* in ſupporting the miniſterial nomination of ſheriffs.

my while it laſts, and which ever way it turns, leaves ruin and diſgrace behind it. The deluded girl, who yields to ſuch a profligate, even while he is conſtant, forfeits her reputation as well as her innocence, and finds herſelf abandoned at laſt to miſery and ſhame. —Thus it happened with the beſt of Princes. Poor Dingley too!—I proteſt I hardly know which of them we ought to lament;—The unhappy man, who ſinks under the weight of his diſhonour, or him who ſurvives it. Characters, ſo finiſhed, are placed beyond the reach of panegyric. Death has fixed his ſeal upon Dingley, and you, my Lord, have ſet your mark upon the other.

THE only letter I ever addreſſed to the King was ſo unkindly received, that I believe I ſhall never preſume to trouble his Majeſty, in that way, again. But my zeal for his ſervice is ſuperior to neglect, and like Mr. Wilkes's patriotiſm, thrives by perſecution. Yet his Majeſty is much addicted to uſeful reading, and, if I am not ill-informed, has honoured the *Public Advertiſer* with particular attention. I have endeavoured therefore, and not without ſucceſs, (as perhaps you may remember) to furniſh it with ſuch intereſting and edifying intelligence, as probably would not reach him through any other channel. The ſervices you have done the nation,—your integrity in office, and ſignal fidelity to your approved good maſter, have been faithfully recorded. Nor have his own virtues been entirely neglected. Theſe letters, my Lord, are read in other countries and in other languages; and I think I may affirm without vanity, that the gracious character of the beſt of Princes is by this time not only perfectly known to

his

his ſubjects, but tolerably well underſtood by the reſt of Europe. In this reſpect alone, I have the advantage of Mr. Whitehead. His plan, I think, is too narrow. He ſeems to manufacture his verſes for the ſole uſe of the hero, who is ſuppoſed to be the ſubject of them, and, that his meaning may not be exported in foreign bottoms, ſets all tranſlation at defiance.

Your Grace's re-appointment to a ſeat in the cabinet was announced to the publick by the ominous return of Lord Bute to this country. When that noxious planet approaches England, he never fails to bring plague and peſtilence along with him. The king already feels the malignant effect of your influence over his councils. Your former adminiſtration made Mr. Wilkes an Alderman of London, and Repreſentative of Middleſex. Your next appearance in office is marked with his election to the Shrievalty. In whatever meaſure you are concerned, you are not only diſappointed of ſucceſs, but always contrive to make the government of the beſt of Princes contemtible in his own eyes, and ridiculous to the whole world. Making all due allowance for the effect of the miniſter's declared interpoſition, Mr. Robinſon's activity, and Mr. Horne's new zeal in ſupport of adminiſtration, we ſtill want the genius of the Duke of Grafton to account for committing the whole intereſt of government in the city, to the conduct of Mr. Harley. I will not bear hard upon your faithful friend and emiſſary Mr. Touchet, for I know the difficulties of his ſituation, and that a few lottery tickets are of uſe to his œconomy. There is a proverb concerning perſons in the predicament of this

gentleman, which however cannot be ſtrictly applied to him. *They commence dupes and finiſh knaves.* Now Mr. Touchet's character is uniform. I am convinced that his ſentiments never depended upon his circumſtances, and that, in the moſt proſperous ſtate of his fortune, he was always the very man he is at preſent.—But was there no other perſon of rank and conſequence in the city, whom government could confide in, but a notorious Jacobite? Did you imagine that the whole body of the Diſſenters, that the whole Whig-intereſt of London would attend at the levee, and ſubmit to the directions of a notorious Jacobite? Was there no Whig magiſtrate in the city, to whom the ſervants of George the Third could intruſt the management of a buſineſs, ſo very intereſting to their maſter as the election of ſheriffs? Is there no room at St. James's, but for Scotchmen and Jacobites? My Lord, I do not mean to queſtion the ſincerity of Mr. Harley's attachment to his Majeſty's government. Since the commencement of the preſent reign, I have ſeen ſtill greater ccontradictions reconciled. The principles of theſe worthy Jacobites are not ſo abſurd, as they have been repreſented. Their ideas of divine right are not ſo much annexed to the perſon or family, as to the political character of the ſovereign. Had there ever been an honeſt man among the *Stuarts*, his Majeſty's preſent friends would have been Whigs upon principle. But the converſion of the beſt of Princes has removed their ſcruples. They have forgiven him the ſins of his Hanoverian anceſtors, and acknowledge the hand of Providence in the deſcent of the crown upon the head of a true *Stuart*. In you, my Lord,

Lord, they alſo behold, with a kind of predilection, which borders upon loyalty, the natural repreſentative of that illuſtrious family. The mode of your deſcent from Charles the Second is only a bar to your pretenſions to the crown, and no way interrupts the regularity of your ſucceſſion to all the virtues of the *Stuarts*.

The unfortunate ſucceſs of the reverend Mr. Horne's endeavours, in ſupport of the miniſterial nomination of ſheriffs, will I fear obſtruct his preferment. Permit me to recommend him to your Grace's protection. You will find him copiouſly gifted with thoſe qualities of the heart, which uſually direct you in the choice of your friendſhips. He too was Mr. Wilkes's friend, and as incapable as you are of the liberal reſentment of a gentleman. No, my Lord,—it was the ſolitary, vindictive malice of a monk, brooding over the infirmities of his friend, until he thought they quickened into public life; and feaſting with a rancorous rapture, upon the ſordid catalogue of his diſtreſſes. Now, let him go back to his cloiſter. The church is a proper retreat for him. In his principles he is already a Biſhop.

The mention of this man has moved me from my natural moderation. Let me return to your Grace. You are the pillow, upon which I am determined to reſt all my reſentments. What idea can the beſt of Sovereigns form to himſelf of his own government?—in what repute can he conceive that he ſtands with his people, when he ſees, beyond the poſſibility of a doubt, that, whatever be the office, the ſuſpicion of his favour is fatal to the can-

candidate, and that, when the party he wiſhes well to has the faireſt proſpect of ſucceſs, if his royal inclination ſhould unfortunately be diſcovered, it drops like an acid, and turns the election. This event, among others, may perhaps contribute to open his Majeſty's eyes to his real honour and intereſt. In ſpite of all your Grace's ingenuity, he may at laſt perceive the inconvenience of ſelecting, with ſuch a curious felicity, every villain in the nation to fill the various departments of his government. Yet I ſhould be ſorry to confine him in the choice either of his footmen or his friends.

JUNIUS.

LETTER LI.

FROM THE REVEREND MR. HORNE TO JUNIUS.

SIR, 13 *July*, 1771.

FARCE, *Comedy*, and *Tragedy*,—*Wilkes*, *Foote*, and *Junius*, united at the ſame time, againſt one poor Parſon, are fearful odds. The two former are only labouring in their vocation, and may equally plead in excuſe, that their aim is a livelihood. I admit the plea for the *ſecond*; his is an honeſt calling, and my clothes were lawful game; but I cannot ſo readily approve Mr. Wilkes, or commend him for making patriotiſm a trade, and a fraudulent trade. But what ſhall I ſay to *Junius*? the grave, the ſolemn, the didactic! ridicule, indeed, has been ridiculouſly called the teſt of truth; but ſurely, to confeſs that you loſe your *natural moderation* when mention is made of the man, does not promiſe

promiſe much truth or juſtice when you ſpeak of him yourſelf.

You charge me with "a new zeal in ſupport "of adminiſtration," and with "endeavours in "ſupport of the miniſterial nomination of She-"riffs." The reputation which your talents have deſervedly gained to the ſignature of *Junius*, draws from me a reply, which I diſdained to give to the anonymous lies of Mr. Wilkes. You make frequent uſe of the word *Gentleman*; I only call myſelf a *Man*, and deſire no other diſtinction: if you are either, you are bound to make good your charges, or to confeſs that you have done me a haſty injuſtice upon no authority.

I put the matter fairly to iſſue.—I ſay, that ſo far from any "new zeal in ſupport of adminiſtration," I am poſſeſſed with the utmoſt abhorrence of their meaſures; and that I have ever ſhewn myſelf, and am ſtill ready, in any rational manner, to lay down all I have—my life, in oppoſition to thoſe meaſures. I ſay, that I have not, and never have had any communication or connexion of any kind, directly or indirectly, with any courtier or miniſterial man, or any of their adherents: that I never have received, or ſolicited, or expected, or deſired, or do now hope for, any reward of any ſort, from any party or ſet of men in adminiſtration or oppoſition: I ſay, that I never uſed any "endea-"vours in ſupport of the miniſterial nomination of "Sheriffs." That I did not ſolicit any one liveryman for his vote for any one of the candidates; nor employ any other perſon to ſolicit: and that I did not write one ſingle line or word in favour of Meſſrs.

Plumbe

Plumbe and Kirkman, whom I underſtand to have been ſupported by the miniſtry.——

You are bound to refute what I here advance, or to loſe your credit for veracity: You muſt produce facts; ſurmiſe and general abuſe, in however elegant language, ought not to paſs for proofs. You have every advantage, and I have every diſadvantage: you are unknown, I give my name: all parties, both in and out of adminiſtration, have their reaſons (which I ſhall relate hereafter) for uniting in their wiſhes againſt me: and the popular prejudice is as ſtrongly in your favour, as it is violent againſt the Parſon.

Singular as my preſent ſituation is, it is neither painful, nor was it unforeſeen. He is not fit for public buſineſs who does not even at his entrance prepare his mind for ſuch an event. Health, fortune, tranquility, and private connexions I have ſacrificed upon the altar of the public; and the only return I receive, becauſe I will not concur to dupe and miſlead a ſenſeleſs multitude, is barely, that they have not yet torn me in pieces. That this has been the only return, is my pride; and a ſource of more real ſatisfaction than honours or proſperity. I can practiſe before I am old, the leſſons I learned in my youth; nor ſhall I ever forget the words of my ancient Monitor,

" 'Tis the laſt key-ſtone
" That makes the arch: the reſt that there were put,
" Are nothing till that comes to bind and ſhut.
" Then ſtands it a triumphal mark! then men
" Obſerve the ſtrength, the height, the why and
" when

" It

" It was erected; and ſtill walking under,
" Meet ſome new matter to look up and wonder!"

I am, SIR,
Your humble Servant,
JOHN HORNE.

LETTER LII.

TO THE REVEREND MR. HORNE.

SIR, 24 *July*, 1771.

I CANNOT deſcend to an altercation with you in the news-papers. But ſince I have attacked your character, and you complain of injuſtice, I think you have ſome right to an explanation. You defy me to prove, that you ever ſolicited a vote, or wrote a word in ſupport of the miniſterial aldermen. Sir, I did never ſuſpect you of ſuch groſs folly. It would have been impoſſible for Mr. Horne to have ſolicited votes, and very difficult to have written for the news-papers in defence of that cauſe, without being detected and brought to ſhame. Neither do I pretend to any intelligence concerning you, or to know more of your conduct, than you yourſelf have thought proper to communicate to the public. It is from your own letters I conclude that you have ſold yourſelf to the miniſtry: or, if that charge be too ſevere, and ſuppoſing it poſſible to be deceived by appearances ſo very ſtrongly againſt you, what are your friends to ſay in your defence? muſt they not confeſs that, to gratify your perſonal hatred of Mr. Wilkes, you ſacrificed, as far as depended upon *your* intereſt and abilities, the cauſe of the country? I can make allowance for the violence

violence of the paſſions, and if ever I ſhould be convinced that you had no motive but to deſtroy Wilkes, I ſhall then be ready to do juſtice to your character, and to declare to the world that I deſpiſe you ſomewhat leſs than I do at preſent.—But as a public man, I muſt for ever condemn you. You cannot but know,—nay you dare not pretend to be ignorant, that the higheſt gratification of which the moſt deteſtable in this nation is capable, would have been the defeat of Wilkes. I know *that man* much better than any of you. Nature intended him only for a good-humoured fool. A ſyſtematical education, with long practice, has made him a conſummate hypocrite. Yet this man, to ſay nothing of his worthy miniſters, you have moſt aſſiduouſly laboured to gratify. To exclude Wilkes, it was not neceſſary you ſhould ſolicit votes for his opponents. We incline the balance as effectually by leſſening the weight in one ſcale, as by increaſing it in the other.

The mode of your attack upon Wilkes (though I am far from thinking meanly of your abilities) convinces me, that you either want judgment extremely, or that you are blinded by your reſentment. You ought to have foreſeen, that the charges you urged againſt Wilkes could never do him any miſchief. After all, when we expected diſcoveries highly intereſting to the community, what a pitiful detail did it end in!—Some old cloaths—a Welſh poney—a French footman, and a hamper of claret. Indeed, Mr. Horne, the public ſhould, and *will* forgive him his claret and his footmen, and even the ambition of making his brother cham-

chamberlain of London, as long as he ſtands forth againſt a miniſtry and parliament, who are doing every thing they can to enſlave the country, and as long as he is a thorn in the King's ſide. You will not ſuſpect me of ſetting up *Wilkes* for a perfect character. The queſtion to the public is, where ſhall we find a man, who, with purer principles, will go the lengths, and run the hazards that he has done? the ſeaſon calls for ſuch a man, and he ought to be ſupported. What would have been the triumph of that odious hypocrite and his minions, if *Wilkes* had been defeated! It was not *your* fault, reverend Sir, that he did not enjoy it compleatly.—But now I promiſe you, you have ſo little power to do miſchief, that I much queſtion whether the miniſtry will adhere to the promiſes they have made you. It will be in vain to ſay that I am a partizan of Mr. Wilkes, or perſonally your enemy. You will convince no man, for you do not believe it yourſelf. Yet, I confeſs, I am a little offended at the low rate, at which you ſeem to value my underſtanding. I beg, Mr. Horne, you will hereafter believe that I meaſure the integrity of men, by their conduct, not by their profeſſions. Such tales may entertain Mr. Oliver, or your grandmother, but truſt me, they are thrown away upon *Junius*.

You ſay you are a *man*. Was it generous, was it manly, repeatedly to introduce into a news-paper, the name of a young lady, with whom you muſt heretofore have lived on terms of politeneſs and good-humour?—but I have done with you. In *my* opinion, your credit is irrecoverably ruined. Mr. *Townſhend*, I think is nearly in the ſame predicament.

ment.—Poor *Oliver* has been ſhamefully duped by you. You have made him ſacrifice all the honour he got by his impriſonment.—As for Mr. *Sawbridge*, whoſe character I really reſpect, I am aſtoniſhed he does not ſee through your duplicity. Never was ſo baſe a deſign ſo poorly conducted.—This letter, you ſee, is not intended for the public, but if you think it will do you any ſervice, you are at liberty to publiſh it.

JUNIUS.

*** This letter was tranſmitted privately by the Printer to Mr. Horne, by Junius's requeſt. Mr. Horne returned it to the Printer, with directions to publiſh it.

LETTER LIII.

FROM THE REVEREND MR. HORNE TO JUNIUS.

SIR, 31 *July*, 1771.

YOU have diſappointed me. When I told you that ſurmiſe and general abuſe, in however elegant language, ought not to paſs for proofs, I evidently hinted at the reply which I expected: but you have dropped your uſual elegance, and ſeem willing to try what will be the effect of ſurmiſe and general abuſe in very coarſe language. Your anſwer to my letter (which I hope was cool, temperate and modeſt) has convinced me that my idea of a *man* is much ſuperior to yours of a *gentleman*. Of your former letters I have always ſaid *materiem ſuperabat opus*: I do not think ſo of the preſent; the principles are more deteſtable than the expreſſions are mean and illiberal. I am contented that all thoſe who adopt the one ſhould for ever load me with the other.

I APPEAL to the common-ſenſe of the public, to which

which I have ever directed myſelf: I believe they have it, though I am ſometimes half-inclined to ſuſpect that Mr. Wilkes has formed a truer judgment of mankind than I have. However of this I am ſure, that there is nothing elſe upon which to place a ſteady reliance. Trick, and low cunning, and addreſſing their prejudices and paſſions, may be the fitteſt means to carry a particular point; but if they have not common-ſenſe, there is no proſpect of gaining for them any real permanent good. The ſame paſſions which have been artfully uſed by an honeſt man for their advantage, may be more artfully employed by a diſhoneſt man for their deſtruction. I deſire them to apply their common ſenſe to this letter of *Junius*, not for my ſake, but their own; it concerns them moſt nearly, for the principles it contains lead to diſgrace and ruin, and are inconſiſtent with every notion of civil ſociety.

THE charges which *Junius* has brought againſt me are made ridiculous by his own inconſiſtency and ſelf-contradiction. He charges me poſitively with "a new zeal in ſupport of adminiſtration;" and with "endeavours in ſupport of the miniſterial no-"mination of Sheriffs." And he aſſigns two inconſiſtent motives for my conduct: either that I have "*ſold* myſelf to the miniſtry;" or am inſtigated "by the ſolitary, vindictive "*malice* of a monk:" either that I am influenced by a ſordid deſire of *gain*; or am hurried on by "perſonal *hatred* and "blinded by *reſentment*." In his letter to the Duke of Grafton he ſuppoſes me actuated by both: in his letter to me he at firſt doubts which of the two, whether intereſt, or revenge is my motive: howe-

ver, at laſt he determines for the former, and again poſitively aſſerts that "the miniſtry have made me "promiſes;" yet he produces no inſtance of corruption, nor pretends to have any intelligence of a miniſterial connexion: he mentions no *cauſe* of perſonal hatred to Mr. Wilkes, nor any *reaſon* for my reſentment, or revenge; nor has Mr. Wilkes himſelf ever hinted any, though repeatedly preſſed. When *Junius* is called upon to juſtify his accuſation, he anſwers, "he cannot deſcend to an altercation with "me in the news papers." *Junius*, who *exiſts* only in the news papers, who acknowledges "he has attacked my character" *there*, and "thinks I have "ſome right to an *explanation*;" yet this *Junius* "cannot deſcend to an altercation in the news pa-"pers!" and becauſe he cannot deſcend to an altercation with me in the news papers, he ſends a letter of abuſe by the printer, which he finiſhes with telling me—"I am at liberty to *publiſh* it." This to be ſure is a moſt excellent method to avoid an altercation in the news papers!

THE *proofs* of his poſitive charges are as extraordinary, "He does not pretend to any intelligence "concerning me, or to know more of my conduct "than I myſelf have thought proper to communi-"cate to the public." He does not ſuſpect me of ſuch groſs folly as to have ſolicited votes, or to have written anonymouſly in the news papers; becauſe it is impoſſible to do either of theſe without being detected and brought to ſhame. *Junius* ſays this! Who yet imagines that he has himſelf written two years under that ſignature, (and more under *others*) without being detected!—his warmeſt admires will not

not hereafter add, without being brought to ſhame. But though he did never ſuſpect me of ſuch groſs folly as to run the *hazard* of being detected and brought to ſhame by *anonymous* writing, he inſiſts that I have been guilty of a much groſſer folly of incurring the certainty of ſhame and detection by writing *ſigned* with my name! But this is a ſmall flight for the towering *Junius*: "He is FAR from "thinking meanly of my abilities," though he is "convinced that I want judgment extremely," and can, "really reſpect Mr. Sawbridge's character," though he declares him * to be ſo poor a creature as not to "ſee through the baſeſt deſign conducted "in the pooreſt manner!" And this moſt baſe deſign is conducted in the pooreſt manner, by a man whom he does not ſuſpect of groſs folly, and of whoſe abilities he is FAR from thinking meanly!

SHOULD we aſk *Junius* to reconcile theſe contradictions, and explain this nonſenſe; the anſwer is ready; "he cannot deſcend to an altercation in "the news papers." He feels no reluctance to at-

* I beg leave to introduce Mr. Horne to the character of the *Double Dealer*. I thought they had been better acquainted.—"Another very wrong objection has been made by ſome, who have not "taken leiſure to diſtinguiſh the characters. The hero of the play "(meaning *Melleſont*) is a gull, and made a fool, and cheated.—Is "every man a gull and a fool that is deceived?—At that rate, I am "afraid the two claſſes of men will be reduced to one, and the "knaves themſelves be at a loſs to juſtify their title. But if an "open, honeſt-hearted man, who has an entire confidence in one, "whom he takes to be his friend, and who (to confirm him in his "opinion) in all appearance and upon ſeveral trials has been ſo; if "this man be deceived by the treachery of the other, muſt he of ne-"ceſſity commence fool immediately, only becauſe the other has "proved a villain?"—YES, ſays parſon *Horne*. No, ſays *Congreve*, and he, I think, is allowed to have known ſomething of human nature.

tack the character of any man: the throne is not too high, nor the cottage too low: his mighty malice can graſp both extremes: he hints not his accuſations as *opinion*, *conjecture*, or *inference*; but delivers them as *poſitive aſſertions*: Do the accuſed complain of injuſtice? He acknowledges they have ſome ſort of right to an *explanation*; but if they aſk for *proofs* and *facts*, he begs to be excuſed: and though he is no where elſe to be encountered—" he " cannot deſcend to an altercation in the news " papers."

And this perhaps *Junius* may think " the *liberal reſentment of a Gentleman:*" this ſkulking aſſaſſination he may call courage. In all things as in this I hope we differ:

" I thought that fortitude had been a mean
" 'Twixt fear and raſhneſs; not a luſt obſcene
" Or appetite of offending; but a ſkill
" And nice diſcernment between good and ill.
" Her ends are honeſty and public good,
" And without theſe ſhe is not underſtood."

Of two things however he has condeſcended to give proof. He very properly produces a *young lady* to prove that I am not a man: and a good *old woman*, my grandmother, to prove Mr. Oliver a fool. Poor old ſoul! ſhe read her bible far otherwiſe than *Junius!* ſhe often found there that the ſins of the fathers had been viſited on the children; and therefore was cautious that herſelf and her immediate deſcendents ſhould leave no reproach on her poſterity: and they left none: how little could ſhe foreſee this reverſe of *Junius*, who viſits my political ſins upon my *grandmother!* I do not charge this to the

the ſcore of malice in him, it proceeded intirely from his propenſity to blunder; that whilſt he was reproaching me for introducing in the moſt harmleſs manner, the name of *one* female, he might himſelf at the ſame inſtant, introduce *two*.

I AM repreſented alternately as it ſuits *Junius*'s purpoſe, under the oppoſite characters of a *gloomy Monk*, and a man of *politeneſs and good humour*. I am called "*a ſolitary Monk*," in order to confirm the notion given of me in Mr. Wilkes's anonymous paragraphs, that I *never laugh*: and the terms of *politeneſs* and *good humour* on which I am ſaid to have lived heretofore with the *young lady*, are intended to confirm other paragraphs of Mr. Wilkes, in which he is ſuppoſed to have offended me by *refuſing his daughter*. Ridiculous! Yet I cannot deny but that *Junius* has proved me *unmanly* and *ungenerous* as clearly as he has ſhewn me *corrupt* and *vindictive*: and I will tell him more; I have paid the preſent Miniſtry as many *viſits*, and *compliments* as ever I paid to the *young lady*, and ſhall all my life treat them with the *ſame politeneſs and good humour*.

BUT *Junius* "begs me to believe that he meaſures the integrity of men by their *conduct*, not "by their *profeſſions*." Sure this *Junius* muſt imagine his readers as void of underſtanding, as he is of modeſty! Where ſhall we find the ſtandard of HIS integrity? By what are we to meaſure the *conduct* of this lurking aſſaſſin?—And he ſays this to me, whoſe conduct, wherever I could perſonally appear, has been as direct and open and public as my words; I have not, like him, concealed myſelf in my chamber to ſhoot my arrows out of the window; nor con-

tented myſelf to view the battle from afar; but publicly mixed in the engagement, and ſhared the danger. To whom have I, like him, refuſed my name upon complaint of injury? what printer have I deſired to conceal me? in the infinite variety of buſineſs I have been concerned, where it is not ſo eaſy to be faultleſs, which of my actions can he arraign? to what danger has any man been expoſed, which I have not faced? *information*, *action*, *impriſonment*, or *death?* what labour have I refuſed? what expence have I declined? what pleaſure have I not renounced?—But *Junius*, *to whom no conduct belongs* "meaſures the integrity of men by their "*conduct*, not by their profeſſions;" himſelf all the while being nothing but *profeſſions*, and thoſe too *anonymous!* the political ignorance or wilful falſhood of this *declaimer* is extreme: his own *former* letters juſtify both my conduct and thoſe whom his *laſt* letter abuſes: for the public meaſures, which *Junius* has been all along defending, were ours, whom he attacks; and the uniform oppoſer of thoſe meaſures has been Mr. Wilkes, whoſe bad actions and intentions he endeavours to ſcreen.

Let *Junius* now, if he pleaſes, change his abuſe; and quitting his looſe hold of *intereſt* and *revenge*, accuſe me of *vanity*, and call this defence *boaſting*. I own I have a pride to ſee ſtatues decreed, and the higheſt honours conferred for meaſures and actions which all men have approved: whilſt thoſe who counſelled and cauſed them are execrated and inſulted. The darkneſs in which *Junius* thinks himſelf ſhrouded, has not concealed him; nor the artifice of only *attacking under that ſignature*

ſignature thoſe he would pull down (whilſt he *recommends by other ways* thoſe he would have promoted) diſguiſed from me whoſe partizan he is. When Lord Chatham can forgive the aukward ſituation in which for the ſake of the public he was deſignedly placed by the thanks to him from the city: and when *Wilkes's name* ceaſes to be neceſſary to Lord Rockingham to keep up a clamour againſt the *perſons* of the miniſtry, without obliging the different factions now in oppoſition to bind themſelves beforehand to ſome certain points, and to ſtipulate ſome preciſe advantages to the public; then, and not till then, may thoſe whom he now abuſes expect the approbation of *Junius*. The approbation of the public for our faithful attention to their intereſt by endeavours for thoſe ſtipulations, which have made us as obnoxious to the factions in oppoſition as to thoſe in adminiſtration, is not perhaps to be expected till ſome years hence; when the public will look back and ſee how ſhamefully they have been deluded; and by what arts they were made to loſe the golden opportunity of preventing what they will ſurely experience,—a change of miniſters, without a *material* change of meaſures, and without any ſecurity for a tottering conſtitution.

But what cares *Junius* for the ſecurity of the conſtitution? He has now unfolded to us his diabolical principles. *As a public man he muſt ever condemn* any meaſure which may tend accidentally to *gratify* the Sovereign: and Mr. Wilkes is to be ſupported and aſſiſted in all his attempts (no matter how ridiculous and miſchievous his projects) *as long as he continues to be a thorn in the King's ſide!*—The *cauſe*

of the country; it ſeems, in the opinion of *Junius*, is merely to vex the King; and any raſcal is to be ſupported in any roguery, provided he can only thereby plant *a thorn in the King's ſide*.—This is the very extremity of faction, and the laſt degree of political wickedneſs. Becauſe Lord Chatham has been ill-treated by the King and treacherouſly betrayed by the Duke of Grafton, the latter is to be "the pillow on which *Junius* will reſt his reſent-"ment;" and the public are to oppoſe the meaſures of government from mere motives of perſonal enmity to the Sovereign!—Theſe are the avowed principles of the man who in the ſame letter ſays, "if ever he ſhould be convinced that I had no mo-"tive but to deſtroy Wilkes, he ſhall then be ready "to do juſtice to my character, and to declare to "the world that he deſpiſes me ſomewhat leſs than "he does at preſent!" Had I ever acted from perſonal affection or enmity to Mr. *Wilkes*, I ſhould juſtly be deſpiſed: But what does he deſerve whoſe avowed motive is perſonal enmity to the Sovereign; the contempt which I ſhould otherwiſe feel for the abſurdity and glaring inconſiſtency of *Junius*, is here ſwallowed up in my abhorrence of his principle. The *right divine* and *ſacredneſs* of Kings is to me a ſenſeleſs jargon. It was thought a daring expreſſion of Oliver Cromwell in the time of Charles the Firſt, that if he found himſelf placed oppoſite to the King in battle, he would diſcharge his piece into his boſom as ſoon as into any other man's. I go farther: had I lived in thoſe days, I would not have waited for chance to give me an opportunity of doing my duty; I would have ſought him through

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the ranks, and without the leaſt perſonal enmity, have diſcharged my piece into his boſom *rather* than into any other man's. The King, whoſe actions juſtify rebellion to his government, deſerves death from the hand of every ſubject. And ſhould ſuch a time arrive, I ſhall be as free to act as to ſay. But till then, my attachment to the perſon and family of the Sovereign ſhall ever be found more zealous and ſincere than that of his flatterers. I would offend the Sovereign with as much reluctance as the parent; but if the happineſs and ſecurity of the whole family made it neceſſary, ſo far and no farther, I would offend him without remorſe.

But let us conſider a little whither theſe principles of *Junius* would lead us. Should Mr. Wilkes once more commiſſion Mr. Thomas Walpole to procure for him a penſion of *one thouſand pounds* upon the Iriſh eſtabliſhment for thirty years; he muſt be ſupported in the demand by the public—becauſe it would mortify the King!

Should he wiſh to ſee Lord Rockingham and his friends once more in adminiſtration, *unclogged by any ſtipulations for the people*, that he might again enjoy a *penſion of one thouſand and forty pounds* a year, viz. From the *Firſt Lord of the Treaſury* 500 l. From the *Lords of the Treaſury* 60 l. each. From the *Lords of Trade* 40 l. each, &c. The public muſt give up their attention to points of national benefit, and aſſiſt Mr. Wilkes in his attempt—becauſe it would mortify the King!

Should he demand the Government of *Canada*, or of *Jamaica*, or the embaſſy to *Conſtantinople*; and in caſe of refuſal threaten to write them down,

as

as he had before ſerved another adminiſtration, in a year and a half; he muſt be ſupported in his pretenſions and upheld in his inſolence—becauſe it would mortify the King!

JUNIUS may chuſe to ſuppoſe that theſe things cannot happen! But that they have happened, notwithſtanding Mr. Wilkes's denial, I do aver. I maintain that Mr. Wilkes did commiſſion Mr. Thomas Walpole to ſolicit for him a penſion of *one thouſand pounds* on the *Iriſh* eſtabliſhment for *thirty years*; with which and a pardon he declared he would be ſatisfied: and that, notwithſtanding his letter to Mr. Onſlow, he did accept a *clandeſtine*, *precarious* and *eleemoſinary* penſion from the Rockingham adminiſtration; which they paid in proportion to and out of their ſalaries; and ſo entirely was it miniſterial, that as any of them went out of the miniſtry, their names were ſcratched out of the liſt, and they contributed no longer. I ſay, he did ſolicit the governments and the embaſſy, and threatened their refuſal nearly in theſe words—"It coſt "me a year and a half to write down the laſt ad-"miniſtration, ſhould I employ as much time upon "you, very few of you would be in at the death." When theſe threats did not prevail, he came over to England to embarraſs them by his preſence; and when he found that Lord Rockingham was ſomething firmer and more manly than he expected, and refuſed to be bullied—into what he could not perform, Mr. Wilkes declared that he could not leave England without money; and the Duke of Portland and Lord Rockingham purchaſed his abſence with *one hundred pounds a piece*; with which he

he returned to Paris. And for the truth of what I here advance, I appeal to the Duke of Portland, to Lord Rockingham, to Lord John Cavendiſh, to Mr. Walpole, &c.—I appeal to the hand-writing of Mr. Wilkes, which is ſtill extant.

SHOULD Mr. Wilkes afterwards (failing in his wholeſale trade) chuſe to dole out his popularity by the pound, and expoſe the city offices to ſale to his brother, his attorney, &c. *Junius* will tell us, it is only an *ambition* that he has to make them *chamberlain*, *town-clerk*, &c. and he muſt not be oppoſed in thus robbing the antient citizens of their birth-right—becauſe any defeat of Mr. Wilkes would gratify the King!

SHOULD he, after conſuming the whole of his own fortune and that of his wife, and incurring a debt of *twenty thouſand pounds* merely by his own private extravagance, without a ſingle ſervice or exertion all this time for the public, whilſt his eſtate remained; ſhould he, at length, being undone, commence patriot, have the good fortune to be illegally perſecuted, and in conſideration of that illegality be eſpouſed by a few gentlemen of the pureſt public principles; ſhould his debts, (though none of them were contracted for the public) and all his other incumbrances be diſcharged; ſhould he be offered 600 l. or 1000 l. a year to make him independent for the future; and ſhould he, after all, inſtead of gratitude for theſe ſervices, inſolently forbid his benefactors to beſtow their own money upon any other object but himſelf, and revile them for ſetting any bounds to their ſupplies; *Junius* (who, any more than Lord Chatham, never contributed one farthing

farthing to theſe enormous expences) will tell them, that if they think of converting the ſupplies of Mr. Wilkes's private extravagance to the ſupport of public meaſures———they are as great fools as my *grandmother*; and that Mr. Wilkes ought to hold the ſtrings of their purſes—*as long as he continues to be a thorn in the King's ſide!*

UPON theſe principles I never have acted, and I never will act. In my opinion, it is leſs diſhonourable to be the creature of a court than the tool of a faction. I will not be either. I underſtand the two great leaders of oppoſition to be Lord Rockingham and Lord Chatham; under one of whoſe banners all the oppoſing members of both houſes, who deſire to get places, enliſt. I can place no confidence in either of them, or in any others, unleſs they will now engage, whilſt they are OUT, to grant certain eſſential advantages for the ſecurity of the public when they ſhall be IN adminiſtration. Theſe points they refuſe to ſtipulate, becauſe they are fearful leſt they ſhould prevent any future overtures from the court. To force them to theſe ſtipulations has been the uniform endeavour of Mr. Sawbridge, Mr. Townſend, Mr. Oliver, &c. and THEREFORE, they are abuſed by Junius. I know no reaſon but my zeal and induſtry in the ſame cauſe that ſhould intitle me to the honour of being ranked by his abuſe with perſons of their fortune and ſtation. It is a duty which I owe to the memory of the late Mr. Beckford to ſay, that he had no other aim than this when he provided that ſumptuous entertainment at the Manſion-houſe for the members of both houſes in oppoſition. At that time

time he drew up the heads of an engagement, which he gave to me with a requeſt that I would couch it in terms ſo cautious and preciſe, as to leave no room for future quibble, and evaſion; but to oblige them either to fulfil the intent of the obligation, or to ſign their own infamy, and leave it on record; and this engagement he was determined to propoſe to them at the Manſion-houſe, that either by their refuſal they might forfeit the confidence of the public, or by the engagement lay a foundation for confidence. When they were informed of the intention, Lord Rockingham and his friends flatly refuſed any engagement; and Mr. Beckford as flatly ſwore, they ſhould then—"eat none of his broth;" and he was determined to put off the entertainment: But Mr. Beckford was prevailed upon by ——— to indulge them in the ridiculous parade of a popular proceſſion through the city, and to give them the fooliſh pleaſure of an imaginary conſequence, for the real benefit only of the cooks and purveyors.

It was the ſame motive which dictated the thanks of the city to Lord Chatham; which were expreſſed to be given for his declaration in favour of *ſhort parliaments*: in order thereby to fix Lord Chatham at leaſt to that one conſtitutional remedy, without which all others can afford no ſecurity. The embarraſſment no doubt was cruel. He had his choice either to offend the Rockingham party, who declared *formally* againſt ſhort parliaments, and with the aſſiſtance of whoſe numbers in both houſes he muſt expect again to be miniſter; or to give up the confidence of the public, from whom finally all real conſequence muſt proceed. Lord Chatham

choſe

choſe the latter: and I will venture to ſay, that, by his *anſwer* to thoſe thanks, he has given up the people without gaining the friendſhip or cordial aſſiſtance of the Rockingham faction; whoſe little politics are confined to the making of matches, and extending their family connexions, and who think they gain more by procuring one additional vote to their party in the houſe of commons, than by adding their languid property and feeble character to the abilities of a *Chatham*, or the confidence of a public.

WHATEVER may be the event of the preſent wretched ſtate of politics in this country, the principles of Junius will ſuit no form of government. They are not to be tolerated under any conſtitution. Perſonal enmity is a motive fit only for the devil. Whoever or whatever is Sovereign demands the reſpect and ſupport of the people. The union is formed for their happineſs, which cannot be had without mutual reſpect; and he counſels maliciouſly who would perſuade either to a wanton breach of it. When it is baniſhed by either party, and when every method has been tried in vain to reſtore it, there is no remedy but a divorce: But even then he muſt have a hard and a wicked heart indeed who puniſhes the greateſt criminal merely for the ſake of the puniſhment; and who does not let fall a tear for every drop of blood that is ſhed in a public ſtruggle, however juſt the quarrel.

JOHN HORNE.

LET-

LETTER LIV.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 15 *Auguſt*, 1771.

I OUGHT to make an apology to the Duke of Grafton, for ſuffering any part of my attention to be diverted from his Grace to Mr. Horne. I am not juſtified by the ſimilarity of their diſpoſitions. Private vices, however deteſtable, have not dignity ſufficient to attract the cenſure of the preſs, unleſs they are united with the power of doing ſome ſignal miſchief to the community.—Mr. Horne's ſituation does not correſpond with his intentions.—In my own opinion, (which I know, will be attributed to my uſual vanity and preſumption) his letter to me does not deſerve an anſwer. But I underſtand that the publick are not ſatisfied with my ſilence; —that an anſwer is expected from me, and that if I perſiſt in refuſing to plead, it will be taken for conviction. I ſhould be inconſiſtent with the principles I profeſs, if I declined an appeal to the good ſenſe of the people, or did not willingly ſubmit myſelf to the judgment of my peers.

IF any coarſe expreſſions have eſcaped me, I am ready to agree that they are unfit for Junius to make uſe of, but I ſee no reaſon to admit that they have been improperly applied.

MR. HORNE, it ſeems, is unable to comprehend how an extreme want of conduct and indiſcretion can conſiſt with the abilities I have allowed him; nor can he conceive that a very honeſt man, with a very

very good underſtanding, may be deceived by a knave. His knowledge of human nature muſt be limited indeed. Had he never mixed with the world, one would think that even his books might have taught him better. Did he hear Lord Manſfield, when he defended his doctrine concerning libels?—Or when he ſtated the law in proſecutions for criminal converſation?—Or when he delivered his reaſons for calling the houſe of lords together to receive a copy of his charge to the jury in Woodfall's trial?—Had he been preſent upon any of theſe occaſions, he would have ſeen how poſſible it is for a man of the firſt talents, to confound himſelf in abſurdities, which would diſgrace the lips of an ideot. Perhaps the example might have taught him not to value his own underſtanding ſo highly.—Lord Littleton's integrity and judgment are unqueſtionable;—yet he is known to admire that cunning Scotchman, and verily believes him an honeſt man.—I ſpeak to facts, with which all of us are converſant,—I ſpeak to men and to their experience, and will not deſcend to anſwer the little ſneering ſophiſtries of a collegian.—Diſtinguiſhed talents are not neceſſarily connected with diſcretion. If there be any thing remarkable in the character of Mr. Horne, it is that extreme want of judgment ſhould be united with his very moderate capacity. Yet I have not forgotten the acknowledgment I made him. He owes it to my bounty; and though his letter has lowered him in my opinion, I ſcorn to retract the charitable donation.

I SAID it would be *very difficult* for Mr. Horne to write directly in defence of a miniſterial meaſure,

ſure; and not be detected; and even that difficulty I confined to *his* particular ſituation. He changes the terms of the propoſition, and ſuppoſes me to aſſert, that it would be *impoſſible* for *any* man to write for the news-papers and not be diſcovered.

He repeatedly affirms, or intimates at leaſt, that he knows the author of theſe letters.—With what colour of truth then can he pretend *that I am no where to be encountered but in a news-paper?*—I ſhall leave him to his ſuſpicions. It is not neceſſary that I ſhould confide in the honour or diſcretion of a man, who already ſeems to hate me with as much rancour, as if I had formerly been his friend.—But he aſſerts that he has traced me thro' a variety of ſignatures. To make the diſcovery of any importance to his purpoſe, he ſhould have proved, either that the fictitious character of *Junius* has not been conſiſtently ſupported, or that the author has maintained different principles under different ſignatures. —I cannot recall to my memory the numberleſs trifles I have written;—but I rely upon the conſciouſneſs of my own integrity, and defy him to fix any colourable charge of inconſiſtency upon me.

I am not bound to aſſign the ſecret motives of his apparent hatred of Mr. Wilkes: nor does it follow that I may not judge fairly of *his* conduct, though it were true *that I had no conduct of my own.* —Mr. Horne enlarges, with rapture, upon the importance of his ſervices;—the dreadful battles which he might have been engaged in, and the dangers he has eſcaped.—In ſupport of the formidable deſcription, he quotes verſes without mercy. The gentleman deals in fiction, and naturally appeals to

the evidence of the poets.—Taking him at his word, he cannot but admit the ſuperiority of Mr. Wilkes in this line of his ſervice. On one ſide, we ſee nothing but imaginary diſtreſſes. On the other we ſee real proſecutions;—real penalties;—real impriſonment;—life repeatedly hazarded; and, at one moment, almoſt the certainty of death. Thanks are undoubtedly due to every man who does his duty in the engagement; but it is the wounded ſoldier who deſerves the reward.

I DID not mean to deny that Mr. Horne had been an active partizan. It would defeat my own purpoſe not to allow him a degree of merit, which aggravates his guilt. The very charge *of contributing his utmoſt efforts to ſupport a miniſterial meaſure*, implies an acknowledgment of his former ſervices. If he had not once been diſtinguiſhed by his apparent zeal in defence of the common cauſe, he could not now be diſtinguiſhed by deſerting it.—As for myſelf, it is no longer a queſtion *whether I ſhall mix with the throng, and take a ſingle ſhare in the danger*. Whenever *Junius* appears, he muſt encounter a hoſt of enemies. But is there no honourable way to ſerve the public, without engaging in perſonal quarrels with inſignificant individuals, or ſubmitting to the drudgery of canvaſſing votes for an election? Is there no merit in dedicating my life to the information of my fellow ſubjects?—What public queſtion have I declined, what villain have I ſpared?—Is there no labour in the compoſition of theſe letters? Mr. Horne, I fear, is partial to me, and meaſures the facility of *my* writings, by the fluency of his own.

He talks to us, in high terms, of the gallant feats he would have performed, if he had lived in the laſt century. The unhappy Charles could hardly have eſcaped him. But living princes have a claim to his attachment and reſpect. Upon theſe terms, there is no danger in being a patriot. If he means any thing more than a pompous rhapſody, let us try, how well his argument holds together.—I preſume he is not yet ſo much a courtier as to affirm that the conſtitution has not been groſsly and daringly violated under the preſent reign. He will not ſay, that the laws have not been ſhamefully broken or perverted;—that the rights of the ſubject have not been invaded, or that redreſs has not been repeatedly ſolicited and refuſed.—Grievances like theſe were the foundation of the rebellion in the laſt century, and, if I underſtand Mr. Horne, they would, at that period, have juſtified him to his own mind, in deliberately attacking the life of his ſovereign. I ſhall not aſk him to what political conſtitution this doctrine can be reconciled. But, at leaſt, it is incumbent upon him to ſhew, that the preſent King has better excuſes, than Charles the Firſt, for the errors of his government. He ought to demonſtrate to us that the conſtitution was better underſtood a hundred years ago than it is at preſent;—that the legal rights of the ſubject, and the limits of the prerogative were more accurately defined, and more clearly comprehended. If propoſitions like theſe cannot be fairly maintained, I do not ſee how he can reconcile it to his conſcience, not to act immediately with the ſame freedom with which he ſpeaks. I reverence the character of Charles the

Firſt as little as Mr. Horne; but I will not inſult his misfortunes, by a compariſon that would degrade him.

It is worth obſerving, by what gentle degrees, the furious, proſecuting zeal of Mr. Horne has ſoftened into moderation. Men and meaſures were yeſterday his object. What pains did he once take to bring that great ſtate criminal *Macquirk* to execution!—To-day he confines himſelf to meaſures only.—No penal example is to be left to the ſucceſſors of the Duke of Grafton.—To-morrow, I preſume both men and meaſures will be forgiven. The flaming patriot, who ſo lately ſcorched us in the meridian, ſinks temperately to the weſt, and is hardly felt as he deſcends.

I COMPREHEND the policy of endeavouring to communicate to Mr. Oliver and Mr. Sawbridge, a ſhare in the reproaches, with which he ſuppoſes me to have loaded him. My memory fails me, if I have mentioned their names with diſreſpect;—unleſs it be reproachful to acknowledge a ſincere reſpect for the character of Mr. Sawbridge, and not to have queſtioned the innocence of Mr. Oliver's intentions.

It ſeems I am a partizan of the great leader of the oppoſition. If the charge had been a reproach, it ſhould have been better ſupported. I did not intend to make a public declaration of the reſpect I bear Lord Chatham. I well knew what unworthy concluſions would be drawn from it. But I am called upon to deliver my opinion, and ſurely it is not in the little cenſure of Mr. Horne to deter me from doing ſignal juſtice to a man, who, I confeſs, has

has grown upon my eſteem. As for the common, ſordid views of avarice, or any purpoſe of vulgar ambition, I queſtion whether the applauſe of *Junius* would be of ſervice to Lord Chatham. *My* vote will hardly recommend him to an increaſe of his penſion, or to a ſeat in the cabinet. But if his ambition be upon a level with his underſtanding;—if he judges of what is truly honourable for himſelf, with the ſame ſuperior genius, which animates and directs him, to eloquence in debate, to wiſdom in deciſion, even the pen of Junius ſhall contribute to reward him. Recorded honours ſhall gather round his monument, and thicken over him. It is a ſolid fabric, and will ſupport the laurels that adorn it.—I am not converſant in the language of panegyric.—Theſe praiſes are extorted from me; but they will wear well, for they have been dearly earned.

My deteſtation of the Duke of Grafton is not founded upon his treachery to any individual: though I am willing enough to ſuppoſe that, in public affairs, it would be impoſſible to deſert or betray Lord Chatham, without doing an eſſential injury to this country. My abhorrence of the Duke ariſes from an intimate knowledge of his character, and from a thorough conviction, that his baſeneſs has been the cauſe of greater miſchief to England, than even the unfortunate ambition of Lord Bute.

The ſhortening the duration of parliaments is a ſubject, on which Mr. Horne cannot enlarge too warmly; nor will I queſtion his ſincerity. If I did not profeſs the ſame ſentiments, I ſhould be ſhamefully inconſiſtent with myſelf. It is unneceſſary to

bind Lord Chatham by the written formality of an engagement. He has publicly declared himſelf a convert to Triennial Parliaments; and tho' I have long been convinced that this is the only poſſible reſource we have left to preſerve the ſubſtantial freedom of the conſtitution, I do not think we have a right to determine againſt the integrity of Lord Rockingham or his friends. Other meaſures may undoubtedly be ſupported in argument, as better adapted to the diſorder, or more likely to be obtained.

Mr. Horne is well aſſured, that I never was the champion of Mr. Wilkes. But though I am not obliged to anſwer for the firmneſs of his future adherence to the principles he profeſſes, I have no reaſon to preſume that he will hereafter diſgrace them. As for all thoſe imaginary caſes, which Mr. Horne ſo petulantly urges againſt me, I have one plain, honeſt anſwer to make to him.—Whenever Mr. Wilkes ſhall be convicted of ſoliciting a penſion, an embaſſy, or a government, he muſt depart from that ſituation, and renounce that character, which he aſſumes at preſent, and which, in *my* opinion, intitle him to the ſupport of the public. By the ſame act, and at the ſame moment, he will forfeit his power of mortifying the King; and though he can never be a favourite at St. James's, his baſeneſs may adminiſter a ſolid ſatisfaction to the royal mind. The man, I ſpeak of, has not a heart to feel for the frailties of his fellow-creatures. It is their virtues that afflict, it is their vices that conſole him.

I GIVE every poſſible advantage to Mr. Horne, when I take the facts he refers to for granted. That they are the produce of his invention, ſeems highly probable; that they are exaggerated I have no doubt. At the worſt, what do they amount to, but that Mr. Wilkes, who never was thought of as a perfect pattern of morality, has not been at all times proof againſt the extremity of diſtreſs? How ſhameful is it, in a man who has lived in friendſhip with him, to reproach him with failings, too naturally connected with deſpair! Is no allowance to be made for baniſhment and ruin? Does a two years impriſonment make no atonement for his crimes?—The reſentment of a prieſt is implacable. No ſufferings can ſoften, no penitence can appeaſe him.—Yet he himſelf, I think, upon his own ſyſtem, has a multitude of political offences to atone for. I will not inſiſt upon the nauſeous detail, with which he ſo long diſguſted the public. He ſeems to be aſhamed of it. But what excuſe will he make to the friends of the conſtitution for labouring to promote *this conſummately bad man* to a ſtation of the higheſt national truſt and importance? Upon what honourable motives did he recommend him to the livery of London for their repreſentative;—to the ward of Farringdon for their alderman;—to the county of Middleſex for their knight? Will he affirm that, at that time, he was ignorant of Mr. Wilkes's ſolicitations to the miniſtry?—That he ſhould ſay ſo, is indeed very neceſſary for his own juſtification, but where will he find credulity to believe him?

In what ſchool this gentleman learned his ethics I know not. His *logic* ſeems to have been ſtudied under Mr. Dyſon. That miſerable pamphleteer, by dividing the only precedent in point, and taking as much of it as ſuited his purpoſe, had reduced his argument upon the Middleſex election to ſomething like the ſhape of a ſyllogiſm. Mr. Horne has conducted himſelf with the ſame ingenuity and candour. I had affirmed that Mr. Wilkes would preſerve the public favour, "as long as he ſtood "forth againſt a miniſtry and parliament, who "were doing every thing they could to enſlave the "country, *and* as long as he was a thorn in the "King's ſide." Yet, from the exulting triumph of Mr. Horne's reply, one would think that I had reſted my expectation, that Mr. Wilkes would be ſupported by the public, upon the ſingle condition of his mortifying the King. This may be logic at Cambridge or at the Treaſury, but among men of ſenſe and honour, it is folly or villainy in the extreme.

I see the pitiful advantage he has taken of a ſingle unguarded expreſſion, in a letter not intended for the public. Yet it is only the *expreſſion* that is unguarded. I adhere to the true meaning of that member of the ſentence, taken ſeparately as *he* takes it, and now, upon the cooleſt deliberation, reaſſert that, for the purpoſes I referred to, it may be highly meritorious to the public, to wound the perſonal feelings of the Sovereign. It is not a general propoſition, nor is it generally applied to the chief magiſtrate of this, or any other conſtitution. Mr. Horne knows as well as I do, that the beſt of princes

princes is not diſpleaſed with the abuſe, which he ſees thrown upon his oſtenſible miniſters. It makes them, I preſume, more properly the objects of his royal compaſſion;—neither does it eſcape his ſagacity, that the lower they are degraded in the public eſteem, the more ſubmiſſively they muſt depend upon his favour for protection. This, I affirm upon the moſt ſolemn conviction, and the moſt certain knowledge, is a leading maxim in the policy of the cloſet. It is unneceſſary to purſue the argument any farther.

Mr. Horne is now a very loyal ſubject. He laments the wretched ſtate of politics in this country, and ſees, in a new light, the weakneſs and folly of the oppoſition. *Whoever or whatever is Sovereign, demands the reſpect and ſupport of the people* *, it was not ſo, *when Nero fiddled while Rome was burning*. Our gracious Sovereign has had wonderful ſucceſs, in creating new attachments *to his perſon and family*. He owes it, I preſume, to the regular ſyſtem he has purſued in the myſtery of converſion. He began with an experiment upon the Scotch, and concludes with converting Mr. Horne.—What a pity it is, that the *Jews* ſhould be condemned by Providence to wait for a Meſſiah of their own!

The prieſthood are accuſed of miſinterpreting the ſcriptures. Mr. Horne has improved upon his profeſſion. He alters the text, and creates a refutable doctrine of his own. Such artifices cannot long delude the underſtanding of the people; and

* The very ſoliloque of Lord Suffolk, before he paſſed the Rubicon.

without

without meaning an indecent compariſon, I may venture to foretel, that the Bible and *Junius* will be read, when the commentaries of the Jeſuits are forgotten.

JUNIUS.

LETTER LV.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 26 *Auguſt*, 1771.

THE enemies of the people, having now nothing better to object to my friend *Junius*, are at laſt obliged to quit his politics, and to rail at him for crimes he is not guilty of. His vanity and impiety are now the perpetual topics of their abuſe. I do not mean to leſſen the force of ſuch charges, (ſuppoſing they were true), but to ſhew that they are not founded. If I admitted the premiſes, I ſhould readily agree in all the conſequences drawn from them. Vanity indeed is a venial error, for it uſually carries its own puniſhment with it;—but if I thought *Junius* capable of uttering a diſreſpectful word of the religion of his country, I ſhould be the firſt to renounce and give him up to the public contempt and indignation. As a man, I am ſatisfied that he is a Chriſtian upon the moſt ſincere conviction. As a writer, he would be groſsly inconſiſtent with his political principles, if he dared to attack a religion eſtabliſhed by thoſe laws, which it ſeems to be the purpoſe of his life to defend.—Now for the proofs.—*Junius* is accuſed of an impious alluſion to the holy ſacrament, where he

he ſays that, *if Lord Weymouth be denied the cup, there will be no keeping him within the pale of the miniſtry.* Now, Sir, I affirm that this paſſage refers intirely to a ceremonial in the Roman catholic church, which denies the cup to the laity. It has no manner of relation to the Proteſtant creed, and is in this country, as fair an object of ridicule as *tranſubſtantiation*, or any other part of Lord *Peter*'s hiſtory in the Tale of the Tub.

But *Junius* is charged with equal vanity and impiety, in comparing his writings to the holy ſcripture.—The formal proteſt he makes againſt any ſuch compariſon, avails him nothing. It becomes neceſſary then to ſhew that the charge deſtroys itſelf.—If he be *vain*, he cannot be *impious*. A vain man does not uſually compare himſelf to an object, which it is his deſign to undervalue. On the other hand, if he be *impious*, he cannot be *vain*. For his impiety, if any, muſt conſiſt in his endeavouring to degrade the holy ſcriptures by a compariſon with his own contemptible writings. This would be folly indeed of the groſſeſt nature, but where lies the vanity?—I ſhall now be told,—"Sir, what "you ſay is plauſible enough, but ſtill you muſt "allow that it is ſhamefully impudent in *Junius* to "tell us that his works will live as long as the Bible." My anſwer is, *Agreed: but firſt prove that he has ſaid ſo.* Look at his words, and you will find that the utmoſt he expects is, that the Bible and *Junius* will ſurvive the commentaries of the Jeſuits, which may prove true in a fortnight. The moſt malignant ſagacity cannot ſhew that his works are, *in his opinion*, to live as long as the Bible.—

ble.—Suppoſe I were to foretell that *Jack* and *Tom* would ſurvive *Harry*.—Does it follow that *Jack* muſt live as long as *Tom?* I would only illuſtrate my meaning, and proteſt againſt the leaſt idea of profaneneſs.

YET this is the way in which *Junius* is uſually anſwered, arraigned and convicted. Theſe candid critics never remember any thing he ſays in honour of our holy religion; though it is true that one of his leading arguments is made to reſt *upon the internal evidence which the pureſt of all religions carries with it*. I quote his words, and conclude from them, that he is a true and hearty Chriſtian, in ſubſtance, not in ceremony; though poſſibly he may not agree with my Reverend Lords the Biſhops, or with the Head of the Church, *that prayers are morality, or that kneeling is religion.*

PHILO JUNIUS.

LETTER LVI.

FROM THE REVEREND MR. HORNE TO JUNIUS.

17 *Auguſt*, 1771.

I CONGRATULATE you, Sir, on the recovery of your wonted ſtyle, though it has coſt you a fortnight. I compaſſionate your labour in the compoſition of your letters, and will communicate to you the ſecret of my fluency.—Truth needs no ornament; and, in my opinion, what ſhe borrows of the pencil is deformity.

YOU brought a poſitive charge againſt me of corruption. I denied the charge, and called for your

your proofs. You replied with abuſe and reaſſerted your charge. I called again for proofs. You reply again with abuſe only, and drop your accuſation. In your fortnight's letter there is not one word upon the ſubject of my corruption.

I HAVE no more to ſay, but to return thanks to you for your *condeſcenſion*, and to a *grateful* public and *honeſt* miniſtry for all the favours they have conferred upon me. The two latter, I am ſure, will never refuſe me any grace I ſhall ſolicit; and ſince you have been pleaſed to acknowledge that you told a deliberate lye in my favour out of bounty, and as a charitable donation, why may I not expect that you will hereafter (if you do not forget you ever mentioned my name with diſreſpect) make the ſame acknowledgment for what you have ſaid to my prejudice?—This ſecond recantation will perhaps be more abhorrent from your diſpoſition; but ſhould you decline it, you will only afford one more inſtance how much eaſier it is to be generous than juſt, and that men are ſometimes bountiful who are not honeſt.

AT all events I am as well ſatisfied with your panegyric as Lord Chatham can be. Monument I ſhall have none; but over my grave it will be ſaid, in your own words, "*Horne's ſituation did not cor-*" "*reſpond with his intentions* *."

JOHN HORNE.

* The epitaph would not be ill ſuited to the character;—At the beſt, it is but equivocal.

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LETTER LVII.

TO HIS GRACE THE DUKE OF GRAFTON.

MY LORD, 28 *Sept.* 1771.

THE people of England are not appriſed of the full extent of their obligations to you. They have yet no adequate idea of the endleſs variety of your character. They have ſeen you diſtinguiſhed and ſucceſsful in the continued violation of thoſe moral and political duties, by which the little, as well as the great ſocieties of life, are collected and held together. Every colour, every character became you. With a rate of abilities, which Lord Weymouth very juſtly looks down upon with contempt, you have done as much miſchief to the community as *Cromwell* would have done, if *Cromwell* had been a coward, and as much as *Machiavel*, if *Machiavel* had not known, that an appearance of morals and religion is uſeful in ſociety.—To a thinking man, the influence of the crown will, in no view, appear ſo formidable, as when he obſerves to what enormous exceſſes it has ſafely conducted your Grace, without a ray of real underſtanding, without even the pretenſions to common decency or principle of any kind, or a ſingle ſpark of perſonal reſolution. What muſt be the operation of that pernicious influence, (for which our Kings have wiſely exchanged the nugatory name of prerogative) that, in the higheſt ſtations, can ſo abundantly ſupply the abſence of virtue, courage, and abilities, and qualify a man to be the miniſter of a great nation, whom a private gentleman would be aſhamed

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and afraid to admit into his family! Like the univerſal paſſport of an ambaſſador, it ſuperſedes the prohibition of the laws, baniſhes the ſtaple virtues of the country, and introduces vice and folly triumphantly into all the departments of the ſtate. Other princes, beſides his Majeſty, have had the means of corruption within their reach, but they have uſed it with moderation. In former times corruption was conſidered as a foreign auxiliary to government, and only called in upon extraordinary emergencies. The unfeigned piety, the ſanctified religion of *George the Third* have taught him to new model the civil forces of the ſtate. The natural reſources of the crown are no longer confided in. Corruption glitters in the van;—collects and maintains a ſtanding army of mercenaries, and, at the ſame moment, impoveriſhes and inſlaves the country.—His Majeſty's predeceſſors, (excepting that worthy family, from which you, my Lord, are unqueſtionably deſcended,) had ſome generous qualities in their compoſition, with vices, I confeſs, or frailties in abundance. They were kings or gentlemen, not hypocrites or prieſts. They were at the head of the church, but did not know the value of their office. They ſaid their prayers without ceremony, and had too little prieſtcraft in their underſtanding, to reconcile the ſanctimonious forms of religion with the utter deſtruction of the morality of their people.——My Lord, this is fact, not declamation.—With all your partiality to the houſe *of Stuart*, you muſt confeſs, that even *Charles the Second* would have bluſhed at that open encouragement, at thoſe eager, meretricious careſſes, with which every ſpecies of private vice

vice and public proſtitution is received at *St. James's*.—The unfortunate houſe of *Stuart* has been treated with an aſperity, which, if compariſon be a defence, ſeems to border upon injuſtice. Neither *Charles* nor his brother were qualified to ſupport ſuch a ſyſtem of meaſures, as would be neceſſary, to change the government, and ſubvert the conſtitution of England. One of them was too much in earneſt in his pleaſures,—the other in his religion. But the danger to this country would ceaſe to be problematical, if the crown ſhould ever deſcend to a prince, whoſe apparent ſimplicity might throw his ſubjects off their guard,—who might be no libertine in behaviour,—who ſhould have no ſenſe of honour to reſtrain him, and who, with juſt religion enough to impoſe upon the multitude, might have no ſcruples of conſcience to interfere with his morality. With theſe honourable qualifications, and the deciſive advantage of ſituation, low craft and falſehood are all the abilities that are wanting to deſtroy the wiſdom of ages, and to deface the nobleſt monument that human policy has erected—I know *ſuch* a man;—My Lord, I know you both; and with the bleſſing of God (for I too am religious,) the people of England ſhall know you as well as I do. I am not very ſure that greater abilities would not in effect be an impediment to a deſign, which ſeems at firſt ſight to require a ſuperior capacity. A better underſtanding might make him ſenſible of the wonderful beauty of that ſyſtem he was endeavouring to corrupt. The danger of the attempt might alarm him. The meanneſs, and intrinſic worthleſſneſs of the object (ſuppoſing he could attain

attain it) would fill him with ſhame, repentance, and diſguſt. But theſe are ſenſations, which find no entrance into a barbarous, contracted heart. In ſome men, there is a malignant paſſion to deſtroy the works of genius, literature, and freedom. The *Vandal* and the *Monk* find equal gratification in it.

REFLECTIONS like theſe, my Lord, have a general relation to your grace, and inſeparably attend you, in whatever company or ſituation your character occurs to us. They have no immediate connexion with the following recent fact, which I lay before the public, for the honour of the beſt of Sovereigns, and for the edification of his people.

A PRINCE (whoſe piety and ſelf-denial, one would think, might ſecure him from ſuch a multitude of worldly neceſſities,) with an annual revenue of near a million ſterling, unfortunately *wants money*.—The navy of England, by an equally ſtrange concurrence of unforeſeen circumſtances, (though not quite ſo unfortunately for his Majeſty) is in equal want of timber. The world knows, in what a hopeful condition you delivered the navy to your ſucceſſor, and in what a condition we found it in the moment of diſtreſs. You were determined it ſhould continue in the ſituation in which you left it. It happened, however, very luckily for the privy purſe, that one of the above wants promiſed fair to ſupply the other. Our religious, benevolent, generous Sovereign, has no objection to ſelling *his own* timber to *his own* admiralty, to repair *his own* ſhips, nor to putting the money into *his own* pocket. People of a religious turn naturally adhere

to the principles of the church. Whatever they acquire falls into *mortmain*.—Upon a repreſentation from the admiralty of the extraordinary want of timber, for the indiſpenſable repairs of the navy, the ſurveyor general was directed to make a ſurvey of the timber in all the royal chaces and foreſts in England. Having obeyed his orders with accuracy and attention, he reported, that the fineſt timber he had any where met with, and the propereſt in every reſpect for the purpoſes of the navy, was in *Whittlebury Foreſt*, of which your Grace, I think, is hereditary ranger. In conſequence of this report, the uſual warrant was prepared at the treaſury, and delivered to the ſurveyor, by which he or his deputy were authoriſed to cut down any trees in *Whittlebury Foreſt*, which ſhould appear to be proper for the purpoſes above-mentioned. The deputy being informed that the warrant was ſigned and delivered to his principal in London, croſſes the country to Northamptonſhire, and with an officious zeal for the public ſervice, begins to do his duty in the foreſt. Unfortunately for him, he had not the warrant in his pocket. The overſight was enormous, and you have puniſhed him for it accordingly. You have inſiſted that an active, uſeful officer ſhould be diſmiſſed from his place. You have ruined an innocent man, and his family.—In what language ſhall I addreſs ſo black, ſo cowardly a tyrant;—thou worſe than *one* of the *Brunſwicks*, and all the *Stuarts!*—To them, who know Lord North, it is unneceſſary to ſay, that he was mean and baſe enough to ſubmit to you.—This however is but a ſmall part of the fact. After ruining the ſurveyor's deputy, for act-

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ing without the warrant, you attacked the warrant itſelf. You declared it was illegal, and ſwore in a fit of foaming, frantic paſſion, that it never ſhould be executed. You aſſerted upon your honour, that in the grant of the rangerſhip of *Whittlebury Foreſt*, made by *Charles the Second*, (whom, with a modeſty that would do honour to Mr. Rigby, you are pleaſed to call your anceſtor) to one of his baſtards, (from whom I make no doubt of your deſcent,) the property of the timber is veſted in the ranger.—I have examined the original grant, and now, in the face of the public, contradict you directly upon the fact. The very reverſe, of what you have aſſerted upon your honour is the truth. The grant *expreſsly, and by a particular clauſe*, reſerves the property of the timber for the uſe of the crown.—In ſpite of this evidence,—in defiance of the repreſentations of the admiralty,—in perfect mockery of the notorious diſtreſſes of the Engliſh navy, and thoſe equally preſſing, and almoſt equally notorious neceſſities of your pious Sovereign,—here the matter reſts.—The lords of the treaſury recal their warrant; the deputy-ſurveyor is ruined for doing his duty;—Mr. John Pitt, (whoſe name I ſuppoſe is offenſive to you) ſubmits to be browbeaten and inſulted;—the oaks keep their ground;—the King is defrauded, and the navy of England may periſh for want of the beſt and fineſt timber in the iſland. And all this is ſubmited to—to appeaſe the Duke of Grafton!—To gratify the man, who has involved the King and his kingdom in confuſion and diſtreſs, and who, like a treacherous coward, deſerted his Sovereign in the midſt of it!

THERE has been a ſtrange alteration in your doctrines, ſince you thought it adviſeable to rob the *Duke of Portland* of his property, in order to ſtrengthen the intereſt of Lord *Bute's* ſon-in-law, before the laſt general election. *Nullum tempus occurrit regi*, was then your boaſted motto, and the cry of all your hungry partizans. Now it ſeems a grant of *Charles the Second* to one of his baſtards is to be held ſacred and inviolable! It muſt not be queſtioned by the King's ſervants, nor ſubmitted to any interpretation but your own.—My Lord, this was not the language you held, when it ſuited you to inſult the memory of the glorious deliverer of England from that deteſted family, to which you are ſtill more nearly allied in principle than in blood. —In the name of decency and common-ſenſe, what are your grace's merits, either with King or miniſtry, that ſhould intitle you to aſſume this domineering authority over both?—Is it the fortunate conſanguinity you claim with the houſe of *Stuart?*—Is it the ſecret correſpondence you have for ſo many years carried on with Lord Bute, by the aſſiduous aſſiſtance of your *cream coloured paraſite?*—Could not your gallantry find ſufficient employment for him, in thoſe *gentle* offices by which he firſt acquired the tender friendſhip of *Lord Barrington?*—Or is it only that wonderful ſympathy of manners, which ſubſiſts between your Grace and one of your ſuperiors, and does ſo much honour to you both?—Is the union of *Bliſil* and *Black George* no longer a *romance?*—From whatever origin your influence in this country ariſes, it is a phænomenon in the hiſtory of human virtue and underſtanding.—Good men

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can hardly believe the the fact. Wiſe men are unable to account for it. Religious men find exerciſe for their faith, and make it the laſt effort of their piety, not to repine againſt Providence.

JUNIUS.

LETTER LVIII.

ADDRESSED TO THE LIVERYOF LONDON.

GENTLEMEN, 30 *Sept.* 1771.

IF *you* alone were concerned in the event of the preſent election of a chief magiſtrate of the metropolis, it would be the higheſt preſumption in a ſtranger, to attempt to influence your choice, or even to offer you his opinion. But the ſituation of public affairs has annexed an extraordinary importance to your reſolutions. You cannot, in the choice of your magiſtrate, determine for *yourſelves only*. You are going to determine upon a point, in which every member of the community is intereſted. I will not ſcruple to ſay, that the very being of that law, of that right, of that conſtitution, for which we have been ſo long contending, is now at ſtake. They, who would enſnare your judgment, tell you, it is a *common, ordinary* caſe, and to be decided by ordinary precedent and practice. They artfully conclude, from moderate peaceable times, to times which *are not* moderate, and which *ought not* to be peaceable.—While they ſolicit your favour, they inſiſt upon a rule of rotation, which excludes all idea of election.

LET me be honoured with a few minutes of your attention.—The queſtion, to thoſe who mean fairly

to the liberty of the people, (which we all profeſs to have in view) lies within a very narrow compaſs.—Do you mean to deſert that juſt and honourable ſyſtem of meaſures which you have hitherto purſued, in hopes of obtaining from parliament or from the crown, a full redreſs of paſt grievances, and a ſecurity for the future?—Do you think the cauſe deſperate, and will you declare, that you think ſo to the whole people of England?—If this be your meaning and opinion, you will act conſiſtently with it, in chooſing Mr. *Naſh*.—I profeſs to be unacquainted with his private character. But he has acted as a magiſtrate,—as a public man.—As ſuch I ſpeak of him,—I ſee his name in a proteſt againſt one of your remonſtrances to the crown.—He has done every thing in his power to deſtroy the freedom of popular elections in the city by publiſhing the poll upon a former occaſion; and I know, in general, that he has diſtinguiſhed himſelf by ſlighting and thwarting all thoſe public meaſures, which *you* have engaged in with the greateſt warmth, and hitherto thought moſt worthy of your approbation.—From his paſt conduct, what concluſion will you draw, but that he will act the ſame part as *Lord Mayor*, which he has invariably acted as *Alderman* and *Sheriff*? He cannot alter his conduct, without confeſſing that he never acted upon principle of any kind.—I ſhould be ſorry to injure the character of a man, who perhaps may be honeſt in his intention, by ſuppoſing it *poſſible*, that he can never concur with you in any political meaſure, or opinion.

If, on the other hand, you mean to perſevere in thoſe reſolutions for the public good, which though not

not always ſucceſsful, are always honourable, your choice will naturally incline to thoſe men, who, (whatever they be in other reſpects,) are moſt likely to cooperate with you in the great purpoſes which you are determined not to relinquiſh :—The queſtion is not, of what metal your inſtruments are made, but *whether they are adapted to the work you have in hand?* The honours of the city, *in theſe times*, are improperly, becauſe excluſively, called a *reward*. You mean not merely to *pay*, but to *employ*.—Are Mr. *Croſby* and Mr. *Sawbridge* likely to execute the extraordinary, as well as the ordinary duties of Lord Mayor?—Will they grant you common halls when it ſhall be neceſſary?—Will they go up with remonſtrances to the King?—Have they firmneſs enough to meet the fury of a venal houſe of commons?—Have they fortitude enough not to ſhrink at impriſonment?—Have they ſpirit enough to hazard their lives and fortunes in a conteſt, if it ſhould be neceſſary, with a proſtituted legiſlature?—If theſe queſtions can fairly be anſwered in the affirmative, your choice is made. Forgive this paſſionate language.—I am unable to correct it.—The ſubject comes home to us all.—It is the language of my heart.

JUNIUS.

LETTER LIX.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 5 *October*, 1771.

NO man laments, more ſincerely than I do, the unhappy differences, which have ariſen among the friends of the people, and divided them from each other. The cauſe undoubtedly ſuffers, as well by the diminution of that ſtrength, which union carries with it, as by the ſeparate loſs of perſonal reputation, which every man ſuſtains, when his character and conduct are frequently held forth in odious or contemptible colours.——Theſe differences are only advantageous to the common enemy of the country.—The hearty friends of the cauſe are provoked and diſguſted.—The lukewarm advocate avails himſelf of any pretence to relapſe into that indolent indifference about every thing that ought to intereſt an Engliſhman, ſo unjuſtly dignified with the title of moderation.———The falſe, inſidious partiſan, who creates or foments the diſorder, ſees the fruit of his diſhoneſt induſtry ripen beyond his hopes, and rejoices in the promiſe of a banquet, only delicious to ſuch an appetite as his own.—It is time for thoſe, who really mean the *Cauſe* and the *People*, who have no view to private advantage, and who have virtue enough to prefer the general good of the community to the gratification of perſonal animoſities,—it is time for ſuch men to interpoſe.—Let us try whether theſe fatal diſſentions may not yet be reconciled; or, if that be impracticable, let

let us guard at leaſt againſt the worſt effects of diviſion, and endeavour to perſuade theſe furious partizans, if they will not conſent to draw together, to be ſeparately uſeful to that cauſe, which they all pretend to be attached to.—Honour and honeſty muſt not be renounced, although a thouſand modes of right and wrong were to occupy the degrees of morality between Zeno and Epicurus. The fundamental principles of Chriſtianity may ſtill be preſerved, though every zealous ſectary adheres to his own excluſive doctrine, and pious Eccleſiaſtics make it part of their religion to proſecute one another.——The civil conſtitution too, that legal liberty, that general creed, which every Engliſhman profeſſes, may ſtill be ſupported, though Wilkes, and Horne, and Townſend, and Sawbridge, ſhould obſtinately refuſe to communicate, and even if the fathers of the church, if Savil, Richmond, Camden, Rockingham, and Chatham, ſhould diſagree in the ceremonies of their political worſhip, and even in the interpretation of twenty texts in Magna Charta.—I ſpeak to the people as one of the people.—Let us employ theſe men in whatever departments their various abilities are beſt ſuited to, and as much to the advantage of the common cauſe, as their different inclinations will permit. They cannot ſerve *us*, without eſſentially ſerving themſelves.

If Mr. *Naſh* be elected, he will hardly venture, after ſo recent a mark of the perſonal eſteem of his fellow-citizens, to declare himſelf immediately a courtier. The ſpirit and activity of the ſheriffs will, I hope, be ſufficient to counteract any ſiniſter intentions

tions of the Lord-Mayor. In colliſion with *their* virtue, perhaps he may take fire.

It is not neceſſary to exact from Mr. Wilkes the virtues of a Stoic. They were inconſiſtent with themſelves, who, almoſt at the ſame moment, repreſented him as the baſeſt of mankind, yet ſeemed to expect from him ſuch inſtances of fortitude and ſelf-denial, as would do honour to an apoſtle. It is not however flattery to ſay, that he is obſtinate, intrepid, and fertile in expedients.—That he has no poſſible reſource, but in the public favour, is, in my judgment, a conſiderable recommendation of him. I wiſh that every man, who pretended to popularity, were in the ſame predicament. I wiſh that a retreat to St. James's were not ſo eaſy and open, as Patriots have found it. To Mr. Wilkes there is no acceſs. However he may be miſled by paſſion or imprudence, I think he cannot be guilty of a deliberate treachery to the public. The favour of his country conſtitutes the ſhield, which defends him againſt a thouſand daggers. Deſertion would diſarm him.

I can more readily admire the liberal ſpirit and integrity, than the ſound judgment of any man, who prefers a republican form of government, in this or any other empire of equal extent, to a monarchy ſo qualified and limited as ours. I am convinced, that neither is it in theory the wiſeſt ſyſtem of government, nor practicable in this country. Yet, though I hope the Engliſh conſtitution will for ever preſerve its original monarchical form, I would have the manners of the people purely and ſtrictly republican.—I do not mean the licentious

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ſpirit of anarchy and riot.—I mean a general attachment to the common weal, diſtinct from any partial attachment to perſons or families;—an implicit ſubmiſſion to the laws only, and an affection to the magiſtrate, proportioned to the integrity and wiſdom, with which he diſtributes juſtice to his people, and adminiſters their affairs. The preſent habit of our political body appears to me the very reverſe of what it ought to be. The form of the conſtitution leans rather more than enough to the popular branch; while, in effect, the manners of the people (of thoſe at leaſt who are likely to take a lead in the country) incline too generally to a dependance upon the crown. The real friends of arbitrary power combine the facts, and are not inconſiſtent with their principles, when they ſtrenuouſly ſupport the unwarrantable privileges aſſumed by the Houſe of Commons.—In theſe circumſtances, it were much to be deſired, that we had many ſuch men as Mr. Sawbridge to repreſent us in parliament.—I ſpeak from common report and opinion only, when I impute to him a ſpeculative predilection in favour of a republic.—In the perſonal conduct and manners of the man, I cannot be miſtaken. He has ſhewn himſelf poſſeſſed of that republican firmneſs, which the times require, and by which an Engliſh gentleman may be as uſefully and as honourably diſtinguiſhed, as any citizen of ancient Rome, of Athens, or Lacedæmon.

Mr. Townſend complains, that the public gratitude has not been anſwerable to his deſerts.—It is not difficult to trace the artifices, which have ſuggeſted to him a language, ſo unworthy of his underſtanding.

ſtanding. A great man commands the affections of the people. A prudent man does not complain when he has loſt them. Yet they are far from being loſt to Mr. Townſend. He has treated our opinion a little too cavalierly. A young man is apt to rely too confidently upon himſelf, to be as attentive to his miſtreſs, as a polite and paſſionate lover ought to be. Perhaps he found her at firſt too eaſy a conqueſt.—Yet, I fancy, ſhe will be ready to receive him, whenever he thinks proper to renew his addreſs. With all his youth, his ſpirit, and his appearance, it would be indecent in the lady to ſolicit his return.

I HAVE too much reſpect for the abilities of Mr. Horne, to flatter myſelf that theſe gentlemen will ever be cordially re-united. It is not, however, unreaſonable to expect, that each of them ſhould act his ſeparate part, with honour and integrity to the public.—As for differences of opinion upon ſpeculative queſtions, if we wait until *they* are reconciled, the action of human affairs muſt be ſuſpended for ever. But neither are we to look for perfection in any one man, nor for agreement among many.—When *Lord Chatham* affirms, that the authority of the Britiſh legiſlature is not ſupreme over the colonies, in the ſame ſenſe in which it is ſupreme over Great-Britain;——when *Lord Camden* ſuppoſes a neceſſity, (which the King is to judge of) and, founded upon that neceſſity, attributes to the crown a legal power (not given by the act itſelf) to ſuſpend the operation of an act of the legiſlature,—I liſten to them both with diffidence and reſpect, but without the ſmalleſt degree of conviction or aſſent.

Yet,

Yet, I doubt not, they delivered their real ſentiments, nor ought they to be haſtily condemned.—*I too* have a claim to the candid interpretation of my country, when I acknowledge an involuntary, compulſive aſſent to one very unpopular opinion. I lament the unhappy neceſſity, whenever it ariſes, of providing for the ſafety of the ſtate, by a temporary invaſion of the perſonal liberty of the ſubject. Would to God it were practicable to reconcile theſe important objects, in every poſſible ſituation of public affairs!—I regard the legal liberty of the meaneſt man in Britain, as much as my own, and would defend it with the ſame zeal. I know we muſt ſtand or fall together. But I never can doubt, that the community has a right to command, as well as to purchaſe, the ſervice of its members. I ſee that right founded originally upon a neceſſity, which ſuperſedes all argument. I ſee it eſtabliſhed by uſage immemorial, and admitted by more than a tacit aſſent of the legiſlature. I conclude there is no remedy, in the nature of things, for the grievance complained of; for, if there were, it muſt long ſince have been redreſſed. Though numberleſs opportunities have preſented themſelves, highly favourable to public liberty, no ſucceſsful attempt has ever been made for the relief of the ſubject in this article. Yet it has been felt and complained of, ever ſince England had a navy.—The conditions, which conſtitute this right, muſt be taken together. Separately, they have little weight. It is not fair to argue, from any abuſe in the execution, to the illegality of the power; much leſs is a concluſion to be drawn from the navy to the land ſervice. A ſea-

man

man can never be employed but againſt the enemies of his country. The only caſe in which the King can have a right to arm his ſubjects in general, is that of a foreign force being actually landed upon our coaſt. Whenever that caſe happens, no true Engliſhman will enquire, whether the King's right to compel him to defend his country be the cuſtom of England, or a grant of the legiſlature. With regard to the preſs for ſeamen, it does not follow that the ſymptoms may not be ſoftened, although the diſtemper cannot be cured. Let bounties be increaſed as far as the public purſe can ſupport them. Still they have a limit; and when every reaſonable expence is incurred, it will be found, in fact, that the ſpur of the preſs is wanted to give operation to the bounty.

UPON the whole, I never had a doubt about the ſtrict right of preſſing, until I heard that Lord Mansfield had applauded Lord Chatham for delivering ſomething like this doctrine in the houſe of lords. That conſideration ſtaggered me not a little. But, upon reflection, his conduct accounts naturally for itſelf. He knew the doctrine was unpopular, and was eager to fix it upon the man, who is the firſt object of his fear and deteſtation. The cunning Scotchman never ſpeaks truth without a fraudulent deſign. In council, he generally affects to take a moderate part. Beſides his natural timidity, it makes part of his political plan, never to be known to recommend violent meaſures. When the guards are called forth to murder their fellow ſubjects, it is not by the offenſible advice of Lord Mansfield. That odious office, his prudence tells him,

him, is better left to ſuch men as Gower and Weymouth, as Barrington and Grafton Lord Hillſborough wiſely confines *his* firmneſs to the diſtant Americans.—The deſigns of Mansfield are more ſubtile, more effectual, and ſecure.——Who attacks the liberty of the preſs?—Lord Mansfield.—Who invades the conſtitutional power of juries?—Lord Mansfield.—What judge ever challenged a juryman, but Lord Mansfield?—Who was that judge, who, to ſave the King's brother, affirmed that a man of the firſt rank and quality, who obtains a verdict in a ſuit for crimnal converſation, is entitled to no greater damages than the meaneſt mechanic?—Lord Mansfield.—Who is it makes commiſſioners of the great ſeal?—Lord Mansfield.—Who is it forms a decree for thoſe commiſſioners, deciding againſt Lord Chatham, and afterwards (finding himſelf oppoſed by the judges) declares in parliament, that he never had a doubt that the law was in direct oppoſition to that decree?—Lord Mansfield.—Who is he, that has made it the ſtudy and practice of his life, to undermine and alter the whole ſyſtem of juriſprudence in the court of King's Bench?—Lord Mansfield. There never exiſted a man but himſelf, who anſwered exactly to ſo complicated a deſcription. Compared to theſe enormities, his original attachment to the Pretender, (to whom his deareſt brother was confidential ſecretary) is a virtue of the firſt magnitude. But the hour of impeachment *will* come, and neither he nor Grafton ſhall eſcape me. Now let them make common cauſe againſt England and the houſe of Hanover. A

Stuart

Stuart and a Murray ſhould ſympathiſe with each other.

When I refer to ſignal inſtances of unpopular opinions delivered and maintained by men, who may well be ſuppoſed to have no view but the public good, I do not mean to renew the diſcuſſion of ſuch opinions. I ſhould be ſorry to revive the dormant queſtions of *Stamp-act*, *Corn-bill*, or *Preſs-warrant*. I mean only to illuſtrate one uſeful propoſition, which it is the intention of this paper to inculcate; —*That we ſhould not generally reject the friendſhip or ſervices of any man, becauſe he differs from us in a particular opinion.* This will not appear a ſuperfluous caution, if we obſerve the ordinary conduct of mankind. In public affairs, there is the leaſt chance of a perfect concurrence of ſentiment, or inclination. Yet every man is able to contribute ſomething to the common ſtock, and no man's contribution ſhould be rejected. If individuals have no virtues, their vices may be of uſe to us. I care not with what principle the new-born patriot is animated, if the meaſures he ſupports are beneficial to the community. The nation is intereſted in his conduct. His motives are his own. The properties of a patriot are periſhable in the individual, but there is a quick ſucceſſion of ſubjects, and the breed is worth preſerving.—The ſpirit of the Americans may be an uſeful example to us. Our dogs and horſes are only Engliſh upon Engliſh ground; but patriotiſm, it ſeems, may be improved by tranſplanting.—I will not reject a bill, which tends to confine parliamentary privilege within reaſonable bounds, though it ſhould be ſtolen from the houſe of Cavendiſh, and introduced

introduced by Mr. Onſlow. The features of the infant are a proof of the deſcent, and vindicate the noble birth from the baſeneſs of the adoption.—I willingly accept of a ſarcaſm from *Colonel Barre*, or a ſimile from *Mr. Burke*. Even the ſilent vote of *Mr. Calcraft* is worth reckoning in a diviſion.—What though he riots in the plunder of the army, and has only determined to be a patriot, when he could not be a peer?—Let us profit by the aſſiſtance of ſuch men, while they are with us, and place them, if it be poſſible, in the poſt of danger, to prevent deſertion. The wary *Wedderburne*, the pompous *Suffolk* never threw away the ſcabbard, nor ever went upon a forlorn hope. They always treated the King's ſervants as men, with whom, ſome time or other, they might poſſibly be in friendſhip.—When a man who ſtands forth for the public, has gone that length, from which there is no practicable retreat,—when he has given that kind of perſonal offence, which a pious monarch never pardons, I then begin to think him in earneſt, and that he never will have occaſion to ſolicit the forgiveneſs of his country.—But inſtances of a determination ſo entire and unreſerved are rarely met with. Let us take mankind, *as they are*.—Let us diſtribute the virtues and abilities of individuals, according to the offices they affect, and when they quit the ſervice, let us endeavour to ſupply their places with better men than we have loſt. In this country, there are always candidates enough for popular favour. The temple of *fame* is the ſhorteſt paſſage to riches and preferment.

ABOVE all things, let me guard my countrymen againſt the meanneſs and folly of accepting of a trifling or moderate compenſation for extraordinary and eſſential injuries. Our enemies treat us, as the cunning trader does the unſkilful Indian. They magnify their generoſity, when they give us baubles, of little proportionate value, for ivory and gold. The ſame houſe of commons, who robbed the conſtituent body of their right of free election, who preſumed to *make* a law under pretence of *declaring* it, who paid our good King's debts, without once enquiring how they were incurred; who gave thanks for repeated murders committed at home, and for national infamy incurred abroad; who ſcreened *Lord Mansfield*; who impriſoned the magiſtrates of the metropolis, for aſſerting the ſubjects right to the protection of the laws; who eraſed a judicial record, and ordered all proceedings in a criminal ſuit to be ſuſpended;—this very houſe of commons have graciouſly conſented, that their own members may be compelled to pay their debts, and that conteſted elections ſhall for the future be determined with ſome decent regard to the merits of the caſe. The event of the ſuit is of no conſequence to the crown. While parliaments are ſeptennial, the purchaſe of the ſitting member or of the petitioner makes but the difference of a day.—Conceſſions, ſuch as theſe, are of little moment to the ſum of things; unleſs it be to prove, that the worſt of men are ſenſible of the injuries they have done us, and perhaps to demonſtrate to us the imminent danger of our ſituation. In the ſhipwreck of the ſtate, trifles

float

float and are preſerved; while every thing ſolid and valuable ſinks to the bottom, and is loſt for ever.

JUNIUS.

LETTER LX.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

SIR, 15 *October*, 1771.

I AM convinced that *Junius* is incapable of wilfully miſrepreſenting any man's opinion, and that his inclination leads him to treat *Lord Camden* with particular candour and reſpect. The doctrine attributed to him by *Junius*, as far as it goes, correſponds with that ſtated by your correſpondent *Scævola*, who ſeems to make a diſtinction without a difference. *Lord Camden*, it is agreed, did certainly maintain that, in the receſs of parliament, the King, (by which we all mean the *King in council*, or the executive power) might ſuſpend the operation of an act of the legiſlature; and he founded his doctrine upon a ſuppoſed neceſſity, of which the King, *in the firſt inſtance*, muſt be judge. The lords and commons cannot be judges of it in the firſt inſtance, for they do not exiſt.—Thus far *Junius*.

BUT, ſays *Scævola*, *Lord Camden* made *parliament*, and not the *King*, judges of the neceſſity.—That parliament may review the acts of miniſters is unqueſtionable; but there is a wide difference between ſaying that the crown has a *legal* power, and, that miniſters may act *at their peril*. When we ſay an act is *illegal*, we mean that it is forbidden by a

joint reſolution of the three eſtates. How a ſubſequent reſolution of two of thoſe branches can make it *legal ab initio*, will require explanation. If it could, the conſequence would be truly dreadful, eſpecially in theſe times. There is no act of arbitrary power, which the King might not attribute to *neceſſity*, and for which he would not be ſecure of obtaining the approbation of his proſtituted lords and commons. If Lord *Camden* admits that the ſubſequent ſanction of parliament was neceſſary to make the proclamation *legal*, why did he ſo obſtinately oppoſe the bill, which was ſoon after brought in, for indemnifying all thoſe perſons, who had acted under it?—If that bill had not been paſſed, I am ready to maintain, in direct contradiction to Lord Camden's doctrine, (taken as *Scævole* ſtates it) that a litigious exporter of corn, who had ſuffered in his property in conſequence of the proclamation, might have laid his action againſt the cuſtom-houſe officers, and would infallibly have recovered damages. No jury could refuſe them; and if I, who am by no means litigious, had been ſo injured, I would aſſuredly have inſtituted a ſuit in Weſtminſter-hall, on purpoſe to try the queſtion of right. I would have done it upon a principle of defiance of the pretended power of either or both houſes to make declarations inconſiſtent with law, and I have no doubt, that, with an act of parliament of my ſide, I ſhould have been too ſtrong for them all. This is the way, in which an Engliſhman ſhould ſpeak and act, and not ſuffer dangerous precedents to be eſtabliſhed, becauſe the circumſtances are favourable or palliating.

With

WITH regard to Lord *Camden*, the truth is, that he inadvertently over-ſhot himſelf, as appears plainly by that unguarded mention of *a tyranny of forty days*, which I myſelf heard. Inſtead of aſſerting that the proclamation was *legal*, he *ſhould* have ſaid, "My lords, I know the proclamation was *illegal*, "but I adviſed it becauſe it was indiſpenſably ne-"ceſſary to ſave the kingdom from famine, and I "ſubmit myſelf to the juſtice and mercy of my "country."

SUCH language as this would have been manly, rational, and conſiſtent:—not unfit for a lawyer, and every way worthy of a great man.

PHILO JUNIUS.

P. S. IF *Scævola* ſhould think proper to write again upon this ſubject, I beg of him to give me a *direct* anſwer, that is, a plain affirmative or negative, to the following queſtions:—In the interval between the publiſhing ſuch a proclamation (or order of council) as that in queſtion, and its receiving the ſanction of the two houſes, of what nature is it—is it *legal* or *illegal*; or is it neither one nor the other?—I mean to be candid, and will point out to him the conſequence of his anſwer either way.—If it be *legal*, it wants no farther ſanction. If it be *illegal*, the ſubject is not bound to obey it, conſequently it is a uſeleſs, nugatory act, even as to its declared purpoſe. Before the meeting of parliament, the whole miſchief, which it means to prevent, will have been compleated.

LETTER LXI.

TO ZENO.

SIR, 17 *October*, 1771.

THE ſophiſtry of your letter in defence of *Lord Mansfield* is adapted to the character you defend. But *Lord Mansfield* is a man of *form*, and ſeldom in his behaviour tranſgreſſes the rules of decorum. I ſhall imitate his lordſhip's good manners, and leave *you* in the full poſſeſſion of his principles. I will not call you *liar*, *jeſuit*, or *villain*; but, with all the politeneſs imaginable, perhaps I may prove you ſo.

LIKE other fair pleaders in *Lord Mansfield*'s ſchool of juſtice, you anſwer *Junius* by miſquoting his words, and miſtaking his propoſitions. If I am candid enough to admit that this is the very logic taught at *St. Omer*'s, you will readily allow that it is the conſtant practice in the court of *King's Bench*. —JUNIUS *does not ſay*, that he never had a doubt about the ſtrict right of preſſing, *till he knew Lord Mansfield was of the ſame opinion*. His words are, *until he heard that Lord Mansfield had applauded Lord Chatham for maintaining that doctrine in the houſe of lords*. It was not the accidental concurrence of Lord Mansfield's opinion, but the ſuſpicious applauſe given by a cunning Scotchman to the man he deteſts, that raiſed and juſtified a doubt in the mind of *Junius*. The queſtion is not, whether Lord Mansfield be a man of learning and abilities (which *Junius* has never diſputed,) but whether or no he abuſes and miſapplies his talents.

Junius

Junius did *not* ſay that Lord Mansfield had adviſed the calling out the guards. On the contrary, his plain meaning is, that he left that odious office to men leſs cunning than himſelf.—Whether Lord Mansfield's doctrine concerning libels be or be not an attack upon the liberty of the preſs, is a queſtion, which the public in general are very well able to determine. I ſhall not enter into it at preſent. Nor do I think it neceſſary to ſay much to a man, who had the daring confidence to ſay to a jury, "Gentlemen, you are to bring in a verdict, *guilty* or "*not guilty*, but whether the defendant be guilty or "innocent is not matter for *your* conſideration." Cloath it in what language you will, this is the ſum total of Lord Mansfield's doctrine. If not, let *Zeno* ſhew us the difference.

But it ſeems, *the liberty of the preſs may be abuſed*, and *the abuſe of a valuable privilege is the certain means to loſe it*. The *firſt* I admit,—but let the *abuſe* be ſubmitted to a jury, a ſufficient and indeed the only legal and conſtitutional check upon the licence of the preſs. The *ſecond*, I flatly deny. In direct contradiction to *Lord Mansfield* I affirm that, "the "abuſe of a valuable privilege *is not* the *certain* "means to loſe it." If it were, the Engliſh nation would have few privileges left, for where is the privilege that has not, at one time or other, been abuſed by individuals? But it is falſe in reaſon and equity, that particular abuſes ſhould produce a general forfeiture. Shall the community be deprived of the protection of the laws becauſe there are robbers and murderers?—Shall the community be puniſhed, becauſe individuals have offended? Lord

Mansfield ſays ſo, conſiſtently enough with his principles, but I wonder to find him ſo explicit. Yet, for one conceſſion, however extorted, I confeſs myſelf obliged to him.—The liberty of the preſs is after all a *valuable privilege*. I agree with him moſt heartily, and will defend it againſt him.

You aſk me, What *juryman* was challenged by Lord Mansfield?—I tell you, his name was *Benſon*. When his name was called, Lord Mansfield ordered the clerk to paſs him by. As for his reaſons, you may aſk himſelf, for he aſſigned none. But I can tell you what all men thought of it. This *Benſon* had been refractory upon a former jury, and would not accept of the law as delivered by Lord Mansfield; but had the impudence to pretend to think for himſelf.—But you it ſeems, honeſt *Zeno*, know nothing of the matter! You never read *Junius*'s letter to your patron! You never heard of the intended inſtructions from the city to impeach Lord *Mansfield!*—You never heard by what dexterity of *Mr. Paterſon* that meaſure was prevented! How wonderfully ill ſome people are informed!

Junius did *never* affirm that the crime, of ſeducing the wife of a mechanic or a peer, is not the ſame, taken in a moral or religious view. What he affirmed in contradiction to the levelling principle ſo lately adopted by Lord Mansfield was, *that the damages ſhould be proportioned to the rank and fortune of the parties*; and for this plain reaſon, (admitted by every other judge that ever ſat in Weſtminſter Hall) becauſe, what is a compenſation or penalty to one man is none to another. The ſophiſtical diſtinction

tinction you attempt to draw between the perſon *injured*, and the perſon *injuring* is *Mansfield* all over. If you can once eſtabliſh the propoſition that the injured party is not entitled to *receive* large damages, it follows pretty plainly that the party *injuring* ſhould not be compelled to *pay* them; conſequently the King's brother is effectually ſcreened by *Lord Mansfield*'s doctrine. Your reference to *Nathan* and *David* come naturally in aid of your patron's profeſſed ſyſtem of juriſprudence. He is fond of introducing into the *court of King's Bench* any law that contradicts or excludes the common law of England; whether it be *canon*, *civil*, *jus gentium*, or *levitical*. But, Sir, the Bible is the code of our religious faith, not of our municipal juriſprudence; and though it was the pleaſure of God to inflict a particular puniſhment upon David's crime (taken as a breach of his divine commands) and to ſend his prophet to denounce it, an Engliſh jury hath nothing to do either with David or the prophet. They conſider the crime, only as it is a breach of order, an injury to an individual, and an offence to ſociety, and they judge of it by certain poſitive rules of law, or by the practice of their anceſtors. Upon the whole, the man, *after God's own heart* is much indebted to you for comparing him to the duke of Cumberland. That his royal highneſs may be the man after *Lord Mansfield*'s own heart ſeems much more probable, and you I think, *Mr. Zeno*, might ſucceed tolerably well in the character of *Nathan*. The evil deity, the prophet, and the royal ſinner would be very proper company for one another.

You ſay Lord Mansfield did not *make* the commiſſioners

miſſioners of the Great Seal, and that he only adviſed the King to appoint. I believe *Junius* meant no more, and the diſtinction is hardly worth diſputing.—

You ſay he *did not* deliver an opinion upon Lord Chatham's appeal.—I affirm that he *did*, directly in favour of the appeal. This is a point of fact, to be determined by evidence only. But you aſſign no reaſon for his ſuppoſed ſilence, nor for his deſiring a conference with the judges the day before. Was not all Weſtminſter-hall convinced that he did it with a view to puzzle them with ſome perplexing queſtion, and in hopes of bringing ſome of them over to him?—You ſay the commiſſioners were *very capable of framing a decree for themſelves*. By the fact, it only appears, that they were capable of framing an *illegal* one, which, I apprehend, is not much to the credit either of their learning or integrity.

We are both agreed that *Lord Mansfield* has inceſſantly laboured to introduce new modes of proceeding in the court where he preſides; but *you* attribute it to an honeſt zeal in behalf of innocence oppreſſed by quibble and chicane. I ſay that he has introduced *new law* too, and removed the landmarks eſtabliſhed by former deciſions. I ſay that his view is to change a court of common law into a court of equity, and to bring every thing within the *arbitrium* of a *prætorian* court. The public muſt determine between us. *But now for his merits. Firſt* then, the eſtabliſhment of the judges in their places for life, (which you tell us was adviſed by Lord Mansfield) was a conceſſion merely to catch the people. It bore the appearance of a royal bounty, but had nothing real

real in it. The judges were already for life, excepting in caſe of a *demiſe*. Your boaſted bill only provides that it ſhall not be in the power of the King's ſucceſſor to remove them. At the beſt therefore, it is only a legacy, not a gift on the part of his preſent Majeſty, ſince for himſelf, he gives up nothing. ——That he did oppoſe *Lord Camden* and *Lord Northington* upon the proclamation againſt the exportation of corn, is moſt true, and with great ability. With his talents, and taking the right ſide of ſo clear a queſtion, it was impoſſible to ſpeak ill.—— His motives are not ſo eaſily penetrated. They, who are acquainted with the ſtate of politics, at that period, will judge of them ſomewhat differently from *Zeno*. One of the popular bills, which you ſay he ſupported in the houſe of lords, the moſt material is undoubtedly that of *Mr. Grenville*, for deciding conteſted elections. But I ſhould be glad to know upon what poſſible pretence any member of the upper houſe could oppoſe ſuch a bill, after it had paſſed the *houſe of commons?*—I do not pretend to know what ſhare he had in promoting the other two bills, but I am ready to give him all the credit you deſire. Still you will find that a whole life of deliberate iniquity is ill atoned for by doing now and then a laudable action upon a mixed or doubtful principle.— If it be unworthy of him, thus ungratefully treated, to labour any longer for the public, in God's name let him retire. His brother's patron, (whoſe health he once was anxious for) is dead, but the ſon of that unfortunate prince ſurvives, and, I dare ſay, will be ready to receive him.

PHILO JUNIUS.

LET-

LETTER LXII.

TO AN ADVOCATE IN THE CAUSE OF THE PEOPLE.

SIR, 18 *October*, 1771.

YOU do not treat *Junius* fairly. You would not have condemned him ſo haſtily, if you had ever read *Judge Foſter*'s argument upon the legality of preſſing ſeamen. A man who has not read that argument, is not qualified to ſpeak accurately upon the ſubject. In anſwer to ſtrong facts and fair reaſoning, you produce nothing but a vague compariſon between two things, which have little or no reſemblance to each other. *General Warrants*, it is true, had been often iſſued, but they had never been regularly queſtioned or reſiſted, until the caſe of *Mr. Wilkes*. He brought them to trial, and the moment they were tried, they were declared *illegal*. This is not the caſe of *Preſs Warrants*. They have been complained of, queſtioned, and reſiſted in a thouſand inſtances; but ſtill the legiſlature have never interpoſed, nor has there ever been a formal deciſion againſt them in any of the ſuperior courts. On the contrary, they have been frequently recognized and admitted by parliament, and there are judicial opinions given in their favour, by judges of the firſt character. Under the various circumſtances, ſtated by *Junius*, he has a right to conclude, *for himſelf*, that there is no remedy. If you have a good one to propoſe, you may depend upon the aſſiſtance and applauſe of *Junius*. The magiſtrate, who guards the liberty of the individual, deſerves

to

to be commended. But let him remember that it is alſo his duty to provide for, or at leaſt not to hazard the ſafety of the community. If, in the caſe of a foreign war and the expectation of an invaſion, you would rather keep your fleet in harbour, than man it by preſſing ſeamen, who refuſe the bounty, I have done.

You talk of diſbanding the army with wonderful eaſe and indifference. If a wiſer man held ſuch language, I ſhould be apt to ſuſpect his ſincerity.

As for keeping up a *much greater* number of ſeamen in time of peace, it is not to be done. You will oppreſs the merchant, you will diſtreſs trade, and deſtroy the nurſery of your ſeamen. He muſt be a miſerable ſtateſman, who voluntarily, by the ſame act increaſes the public expence, and leſſens the means of ſupporting it.

PHILO JUNIUS.

LETTER LXIII.

22 *October*, 1771.

A FRIEND of *Junius* deſires it may be obſerved, in anſwer to *A Barriſter at Law*,)

1°. THAT the fact of Lord Mansfield's having ordered a juryman to be paſſed by (which poor *Zeno* never heard of) is now formally admitted. When *Mr. Benſon*'s name was called, *Lord Mansfield* was obſerved to flush in the face, (a ſignal of guilt not uncommon with him) and cried out, *Paſs him by*. This I take to be ſomething more than a peremptory challenge. It is an *unlawful command*, without any reaſon aſſigned. That the council did not reſiſt,

ſiſt, is true; but this might happen either from inadvertence, or a criminal complaiſance to Lord Mansfield.—You *Barriſters* are too apt to be civil to my Lord Chief Juſtice, at the expence of your clients.

2°. *Junius* did never ſay that Lord Mansfield had *deſtroyed* the liberty of the preſs. "That his "lordſhip has *laboured to deſtroy*,—that his doctrine "is an *attack* upon the liberty of the preſs,—that it "is an *invaſion* of the right of juries," are the propoſitions maintained by *Junius*. His opponents never anſwer him in point, for they never meet him fairly upon his own ground.

3°. *Lord Mansfield*'s policy, in endeavouring to ſcreen his unconſtitutional doctrines behind an act of the legiſlature, is eaſily underſtood.—Let every Engliſhman ſtand upon his guard;—the right of juries to return a general verdict, in all caſes whatſoever, is a part of our conſtitution. It ſtands in no need of a bill, either *enacting* or *declaratory*, to confirm it.

4°. WITH regard to the *Groſvenor cauſe*, it is pleaſant to obſerve that the doctrine attributed by *Junius* to Lord Mansfield, is admitted by *Zeno* and directly defended. The *Barriſter* has not the aſſurance to deny it flatly, but he evades the charge and ſoftens the doctrine by ſuch poor, contemptible quibbles, as cannot impoſe upon the meaneſt underſtanding.

5°. THE quantity of buſineſs in the *court of King's Bench* proves nothing but the litigious ſpirit of the people, ariſing from the great increaſe of wealth and commerce. Theſe however are now upon

upon the decline, and will ſoon leave nothing but *law ſuits* behind them. When *Junius* affirms that Lord Mansfield has laboured to alter the ſyſtem of juriſprudence, in the court where his lordſhip preſides, he ſpeaks to thoſe, who are able to look a little farther than the vulgar. Beſides that the multitude are eaſily deceived by the impoſing names of *equity* and *ſubſtantial juſtice*, it does not follow that a judge, who introduces into his court new modes of proceeding, and new principles of law, intends, *in every inſtance*, to decide unjuſtly. Why ſhould he, where he has no intereſt?—We ſay that Lord Mansfield is a bad *man*, and a worſe *judge*;—but we do not ſay he is a *mere devil*. Our adverſaries would fain reduce us to the difficulty of proving too much.—This artifice however ſhall not avail him. The truth of the matter is plainly this. When *Lord Mansfield* has ſucceeded in his ſcheme of changing a court of *common law* to a court of *equity*, he will have it in his power to do injuſtice, *whenever he thinks proper*. This, though a wicked purpoſe, is neither abſurd nor unattainable.

6°. THE laſt paragraph, relative to *Lord Chatham*'s cauſe cannot be anſwered. It partly refers to facts, of too ſecret a nature to be aſcertained, and partly is unintelligible. "Upon *one* point, the cauſe "is decided againſt Lord Chatham.—Upon *another* "point, it is decided for him."—Both the *law* and the *language* are well ſuited to a *Barriſter!*—If I have any gueſs at this honeſt gentleman's meaning, it is, that, "whereas the commiſſioners of the Great "Seal ſaw the queſtion in a point of view unfa-"vourable to *Lord Chatham*, and decreed accor-"dingly,—

" dingly,—Lord Mansfield, out of ſheer love and " kindneſs to Lord Chatham, took the pains to " place it in a point of view more favourable to the " *appellant*."— *Credat Judæus Apella.*—So curious an aſſertion would ſtagger the faith of *Mr. Sylva.*

LETTER LXIV.

2 *November*, 1771.

WE are deſired to make the following declaration, in behalf of *Junius*, upon three material points, on which his opinion has been miſtaken, or miſrepreſented.

1°. *Junius* conſiders the right of taxing the colonies, by an act of the Britiſh Legiſlature, as a *ſpeculative* right merely, never to be *exerted*, nor ever to be *renounced*. To *his* judgment it appears plain, " That the general reaſonings, which were employ- " ed againſt that power, went directly to our whole " legiſlative right, and that one part of it could not " be yielded to ſuch arguments, without a virtual " ſurrender of all the reſt."

2°. THAT, with regard to preſs-warrants, his argument ſhould be taken in his own words, and anſwered ſtrictly;—that compariſons may ſometimes illuſtrate, but prove nothing; and that, in this caſe, an appeal to the paſſions is unfair and unneceſſary. *Junius* feels and acknowledges the evil in the moſt expreſs terms, and will ſhew himſelf ready to concur in any rational plan, that may provide for the liberty of the individual, without hazarding the ſafety of the community. At the ſame time, he expects that the evil, ſuch as it is, be not exaggerated or miſrepreſented.

preſented. In general, it is *not* unjuſt that, when the rich man contributes his wealth, the *poor* man ſhould ſerve the ſtate in perſon;—otherwiſe the latter contributes nothing to the defence of that law and conſtitution, from which he demands ſafety and protection. But the queſtion does not lye between *rich* and *poor*. The laws of England make no diſtinctions. Neither is it true that the poor man is torn from the care and ſupport of a wife and family, helpleſs without him. The ſingle queſtion is, whether the *ſeaman**, in times of public danger, ſhall ſerve the merchant or the ſtate, in that profeſſion to which he was bred, and by the exerciſe of which alone he can honeſtly ſupport himſelf and his family.—General arguments againſt the doctrine of *neceſſity*, and the dangerous uſe that may be made of it, are of no weight in this particular caſe. *Neceſſity* includes the idea of *inevitable*. Whenever it is ſo, it creates a law, to which all *poſitive* laws, and all *poſitive* rights muſt give way. In this ſenſe the levy of *ſhip-money* by the King's warrant was not *neceſſary*, becauſe the buſineſs might have been as well or better done by parliament. If the doctrine, maintained by *Junius*, be confined within this limitation, it will go but very little way in ſupport of arbitrary power. That the King is to judge of the occaſion, is no objection, unleſs we are told how it can poſſibly be otherwiſe. There are other inſtances, not leſs important in the exerciſe, nor leſs dangerous in the abuſe, in which the conſtitution relies entirely upon the King's judgment. The executive power proclaims war and peace, binds the nation by treaties, orders gene-

* I confine myſelf ſtrictly to *ſeamen*;—if any others are preſſed, it is a groſs abuſe, which the magiſtrate can and ſhould correct.

ral embargoes, and impoſes quarantines, not to mention a multitude of prerogative writs, which, though liable to the greateſt abuſes, were never diſputed.

3°. It has been urged, as a reproach to *Junius*, that he has not delivered an opinion upon the Game Laws, and particularly the late *Dog-act*. But *Junius* thinks he has much greater reaſon to complain, that he is never aſſiſted by thoſe, who are able to aſſiſt him, and that almoſt the whole labour of the preſs is thrown upon a ſingle hand, from which a diſcuſſion of *every* public queſtion whatſoever is unreaſonably expected. He is not paid for his labour, and certainly has a right to chooſe his employment. ——As to the *Game Laws*, he never ſcrupled to declare his opinion, that they are a ſpecies of the *Foreſt Laws*, that they are oppreſſive to the ſubject, and that the ſpirit of them is incompatible with legal liberty :—that the penalties, impoſed by theſe laws, bear no proportion to the nature of the offence, that the mode of trial and the degree and kind of evidence neceſſary to convict, not only deprive the ſubject of all the benefits of a trial by jury, but are in themſelves too ſummary, and to the laſt degree arbitrary and oppreſſive. That, in particular, the late acts to prevent dog-ſtealing, or killing game between ſun and ſun, are diſtinguiſhed by their abſurdity, extravagance, and pernicious tendency. If theſe terms are weak, or ambiguous, in what language can *Junius* expreſs himſelf?—It is no excuſe for *Lord Mansfield* to ſay that he *happened* to be abſent when theſe bills paſſed the houſe of lords. It was his duty to be preſent. Such bills could never have paſſed the houſe of commons without his

his knowledge. But we very well know by what rule he regulates his attendance. When that order was made in the houſe of lords in the caſe of *Lord Pomfret*, at which every Engliſhman ſhudders, my honeſt *Lord Mansfield* found himſelf, *by mere accident*, in the court of king's bench.—Otherwiſe, he would have done wonders in defence of law and property! The pitiful evaſion is adapted to the character. But *Junius* will never juſtify himſelf, by the example of this bad man. The diſtinction between *doing wrong*, and *avoiding to do right* belongs to Lord Mansfield. *Junius* diſclaims it.

LETTER LXV.

TO LORD CHIEF JUSTICE MANSFIELD.

2 *November*, 1771.

AT the interceſſion of three of your countrymen, you have bailed a man, who, I preſume, is alſo a *Scotchman*, and whom the Lord Mayor of London had refuſed to bail. I do not mean to enter into an examination of the partial, ſiniſter motives of your conduct; but confining myſelf ſtrictly to the fact, I affirm, that you have done that, which by law you were not warranted to do. The thief was taken in the theft;—the ſtolen goods were found upon him, and he made no defence. In theſe circumſtances, (the truth of which You dare not deny, becauſe it is of public notoriety) it could not ſtand indifferent whether he was guilty or not, much leſs could there be any preſumption of his innocence; and, in theſe circumſtances, I affirm, in contradiction to YOU, LORD CHIEF JUSTICE

MANSFIELD, that, by the laws of England, he was *not bailable*. If ever *Mr. Eyre* ſhould be brought to trial, we ſhall hear what You have to ſay for Yourſelf; and I pledge myſelf, before God and my country, in proper time and place to make good my charge againſt you.

JUNIUS.

LETTER LXVI.

TO THE PRINTER OF THE PUBLIC ADVERTISER.

9 *November*, 1771.

JUNIUS engages to make good his charge againſt *Lord Chief Juſtice Mansfield*, ſome time before the meeting of parliament, in order that the houſe of commons may, if they think proper, make it one article in the impeachment of the ſaid *Lord Chief Juſtice*.

LETTER LXVII.

TO HIS GRACE THE DUKE OF GRAFTON.

27 *November*, 1771.

WHAT is the reaſon, my Lord, that, when almoſt every man in the kingdom, without diſtinction of principles or party, exults in the ridiculous defeat of Sir James Lowther, when good and bad men unite in one common opinion of that baronet, and triumph in his diſtreſs, as if the event (without any reference to vice or virtue) were intereſting to human nature, your Grace alone ſhould appear ſo miſerably depreſſed and afflicted? In ſuch univerſal

univerſal joy, I know not where you will look for a compliment of condolence, unleſs you appeal to the tender, ſympathetic ſorrows of Mr. Bradſhaw. That cream-coloured gentleman's tears, affecting as they are, carry conſolation along with them. He never weeps, but, like an April ſhower, with a lambent ray of ſunſhine upon his countenance. From the feelings of honeſt men, upon this joyful occaſion, I do not mean to draw any concluſion to your Grace. *They* naturally rejoice, when they ſee a ſignal inſtance of tyranny reſiſted with ſucceſs;—of treachery expoſed to the deriſion of the world;—an infamous informer defeated, and an impudent robber dragged to the public gibbet.—But, in the *other* claſs of mankind, I own I expected to meet the Duke of Grafton. Men who have no regard for juſtice, nor any ſenſe of honour, ſeem as heartily pleaſed with Sir James Lowther's well deſerved puniſhment, as if it did not conſtitute an example againſt themſelves. The unhappy Baronet has no friends, even among thoſe who reſemble him. You, my Lord, are not reduced to ſo deplorable a ſtate of dereliction. Every villain in the kingdom is your friend; and, in compliment to ſuch amity, I think you ſhould ſuffer your diſmal countenance to clear up. Beſides, my Lord;—I am a little anxious for the conſiſtency of your character. You violate your own rules of decorum, when you do not inſult the man, whom you have betrayed.

THE divine juſtice of retribution ſeems now to have begun its progreſs. Deliberate treachery entails puniſhment upon the traitor. There is no poſſibility of eſcaping it, even in the higheſt rank,

to which the conſent of ſociety can exalt the meaneſt and worſt of men. The forced, unnatural union of Luttrell and Middleſex was an omen of another unnatural union, by which indefeaſible infamy is attached to the houſe of Brunſwick. If one of thoſe acts was virtuous and honourable, the beſt of princes, I thank God, is happily rewarded for it by the other.—Your Grace, *it has been ſaid*, had ſome ſhare in recommending Colonel Luttrell to the King;—or was it only the gentle Bradſhaw, who made himſelf anſwerable for the good behaviour of his friend? An intimate connexion has long ſubſiſted between him and the worthy Lord Irnham. It aroſe from a fortunate ſimilarity of principles, cemented by the conſtant mediation of their common friend Miſs Davis *,

YET

* There is a certain family in this country, on which nature ſeems to have entailed an hereditary baſeneſs of diſpoſition. As far as their hiſtory has been known, the ſon has regularly improved upon the vices of the father, and has taken care to tranſmit them pure and undiminiſhed into the boſom of his ſucceſſor. In the ſenate, their abilities have confined them to thoſe humble, ſordid ſervices, in which the ſcavengers of the miniſtry are uſually employed. But in the memoirs of private treachery, they ſtand firſt and unrivalled. The following ſtory will ſerve to illuſtrate the character of this reſpectable family, and to convince the world that the preſent poſſeſſor has as clear a title to the infamy of his anceſtors, as he has to their eſtate. It deſerves to be recorded for the curioſity of the fact, and ſhould be given to the public as a warning to every honeſt member of ſociety.

The preſent Lord Irnham, who is now in the decline of life, lately cultivated the acquaintance of a younger brother of a family, with which he had lived in ſome degree of intimacy and friendſhip. The young man had long been the dupe of a moſt unhappy attachment to a common proſtitute. His friends and relations foreſaw the conſequences of this connexion, and did every thing that depended upon them to ſave him from ruin. But he had a friend in Lord Irnham, whoſe

YET I confeſs I ſhould be ſorry that the opprobrious infamy of this match ſhould reach beyond the family.—We have now a better reaſon than ever to pray for the long life of the beſt of princes, and the welfare of his royal *iſſue*.—I will not mix any thing ominous with my prayers;—but let parliament look to it.—A *Luttrell* ſhall never ſucceed to the crown of England.—If the hereditary virtues of the family deſerve a kingdom, Scotland will be a proper retreat for them.

THE next is a moſt remarkable inſtance of the goodneſs of Providence. The juſt law of retaliation has at laſt overtaken the little, contemptible tyrant of the North. To this ſon-in-law of your deareſt friend the Earl of Bute, you meant to transfer the Duke of Portland's property; and you haſtened the grant, with an expedition unknown to the Treaſury, that he might have it time enough to give a deciſive turn to the election of the county. The immediate conſequence of this flagitious robbery was, that he loſt the election, which you meant to enſure to him, and with ſuch ſignal circumſtances of ſcorn, reproach, and inſult, (to ſay nothing of the general exultation of all parties) as, (excepting the King's

whoſe advice rendered all their endeavours ineffectual. This hoary letcher, not contented with the enjoyment of his friend's miſtreſs, was baſe enough to take advantage of the paſſions and folly of a young man, and perſuaded him to marry her. He deſcended even to perform the office of father to the proſtitute. He gave her to his friend, who was on the point of leaving the kingdom, and the next night lay with her himſelf.

Whether the depravity of the human heart can produce any thing more baſe and deteſtable than this fact, muſt be left undetermined, until the ſon ſhall arrive at his father's age and experience.

brother-in-law Col. Luttrell, and old *Simon* his father-in-law) hardly ever fell upon a gentleman in this country.—In the event, he loſes the very property, of which he thought he had gotten poſſeſſion; and after an expence, which would have paid the value of the land in queſtion twenty times over.—The forms of villainy, you ſee, are neceſſary to its ſucceſs. Hereafter you will act with greater circumſpection, and not drive ſo directly to your object. To *ſnatch a grace* beyond the reach of common treachery, is an exception, not a rule.

And now, my good Lord, does not your conſcious heart inform you, that the juſtice of retribution begins to operate, and that it may ſoon approach your perſon?—Do you think that *Junius* has renounced the Middleſex election?—Or that the King's timber ſhall be refuſed to the Royal Navy with impunity?—Or that you ſhall hear no more of the ſale of that patent to *Mr. Hine*, which you endeavoured to ſcreen by ſuddenly dropping your proſecution of *Samuel Vaughan*, when the rule againſt him was made abſolute? I believe indeed there never was ſuch an inſtance in all the hiſtory of negative impudence.—But it ſhall not ſave you. The very ſunſhine you live in is a prelude to your diſſolution. When you are ripe, you ſhall be plucked.

JUNIUS.

P. S. I beg you will convey to our gracious maſter my humble congratulations upon the glorious ſucceſs of peerages and penſions, ſo laviſhly diſtributed as the rewards of Iriſh virtue.

LET-

LETTER LXVIII.

TO LORD CHIEF JUSTICE MANSFIELD.

21 *January*, 1772.

I HAVE undertaken to prove that when, at the interceſſion of three of your countrymen, you bailed *John Eyre*, you did that, *which by law you were not warranted to do*, and that a felon, under the circumſtances, *of being taken in the fact, with the ſtolen goods upon him, and making no defence*, is *not bailable* by the laws of England. Your learned advocates have interpreted this charge into a denial that the court of King's Bench, or the judges of that court during the vacation, have any greater authority to bail for criminal offences, than a juſtice of peace. With the inſtance before me, I am ſuppoſed to queſtion your power of doing wrong, and to deny the exiſtence of a power, at the ſame moment that I arraign the illegal exerciſe of it. But the opinions of ſuch men, whether wilful in their malignity, or ſincere in their ignorance, are unworthy of my notice. You, Lord Mansfield, did not underſtand me ſo, and, I promiſe you, your cauſe requires an abler defence.—I am now to make good my charge againſt you. However dull my argument, the ſubject of it is intereſting. I ſhall be honoured with the attention of the public, and have a right to demand the attention of the legiſlature. Supported, as I am, by the whole body of the criminal law of England, I have no doubt of eſtabliſhing my charge. If, on your part, you ſhould have no plain, ſubſtantial defence, but ſhould endeavour

deavour to ſhelter yourſelf under the quirk and evaſion of a practiſing lawyer, or under the mere, inſulting aſſertion of power without right, the reputation you pretend to is gone for ever;—you ſtand degraded from the reſpect and authority of your office, and are no longer, *de jure*, Lord Chief Juſtice of England. This letter, my Lord, is addreſſed, not ſo much to *you*, as to the public. Learned as you are, and quick in apprehenſion, few arguments are neceſſary to ſatisfy you, that you have done that, which by law you were not warranted to do. Your conſcience already tells you, that you have ſinned againſt knowledge, and that whatever defence you make contradicts your own internal conviction. But other men are willing enough to take the law upon truſt. They rely upon your authority, becauſe they are too indolent to ſearch for information; or, conceiving that there is ſome myſtery in the laws of their country, which lawyers are only qualified to explain, they diſtruſt their judgment, and voluntarily renounce the right of thinking for themſelves. With all the evidence of hiſtory before them, from *Treſillian* to *Jefferies*, from *Jefferies* to *Manſfield*, they will not believe it poſſible that a learned judge can act in direct contradiction to thoſe laws, which he is ſuppoſed to have made the ſtudy of his life, and which he has ſworn to adminiſter faithfully. Superſtition is certainly not the characteriſtic of this age. Yet ſome men are bigoted in politics, who are infidels in religion.—I do not deſpair of making them aſhamed of their credulity.

THE

THE charge I brought againſt you is expreſſed in terms guarded and well conſidered. They do not deny the ſtrict power of the judges of the court of King's Bench to bail in caſes, not bailable by a juſtice of peace, nor repleviſable by the common writ, or *ex officio* by the Sheriff. I well knew the practice of the court, and by what legal rules it ought to be directed. But far from meaning to ſoften or diminiſh the force of thoſe terms I have made uſe of, I now go beyond them, and affirm,

I. THAT the ſuperior power of bailing for felony, claimed by the court of King's Bench, is founded upon the opinion of lawyers, and the practice of the court;—that the aſſent of the legiſlature to this power is merely negative, and that it is not ſupported by any poſitive proviſion in any ſtatute whatſoever.—If it be, produce the ſtatute.

II. ADMITTING that the judges of the court of King's Bench are veſted with a diſcretionary power to examine and judge of circumſtances and allegations, which a juſtice of peace is not permitted to conſider, I affirm that the judges, in the uſe and application of that diſcretionary power, are as ſtrictly bound by the ſpirit, intent, and meaning, as the juſtice of peace is by the words of the legiſlature. Favourable circumſtances, alledged before the judge, may juſtify a doubt whether the priſoner be guilty or not; and where the guilt is doubtful, a preſumption of innocence ſhould, in general, be admitted. But, when any ſuch probable circumſtances are alledged, they alter the ſtate and condition of the priſoner. *He* is no longer that *all-but-convicted* felon, whom the law intends

tends, and who by law is *not bailable at all.* If no circumſtances whatſoever are alledged in his favour;—if no allegation whatſoever be made to leſſen the force of that evidence, which the law annexes to a poſitive charge of felony, and particularly to the fact of *being taken with the manor*, I then ſay that the Lord Chief Juſtice of England has no more right to bail him than a juſtice of peace. The diſcretion of an Engliſh judge is not of mere will and pleaſure;—it is not arbitrary;—it is not capricious; but as that great lawyer, (whoſe authority I wiſh you reſpected half as much as I do) truly ſays*, "Diſcretion taken as it ought to "be, is, *diſcernere per legem quid ſit juſtum.* If "it be not directed by the right line of the law, it "is a crooked cord, and appeareth to be unlaw-"ful."—If diſcretion were arbitrary in the judge, he might introduce what novelties he thought proper; but, ſays Lord Coke, "Novelties, without "warrant of precedents, are not to be allowed; "ſome certain rules are to be followed;—*Quic-"quid judicis authoritati ſubjicitur, novitati non "ſubjicitur*;" and this ſound doctrine is applied to the Star-chamber, a court confeſſedly arbitrary. If you will abide by the authority of this great man, you ſhall have all the advantage of his opinon, wherever it appears to favour you. Excepting the plain, expreſs meaning of the legiſlature, to which all private opinions muſt give way, I deſire no better judge between us than Lord Coke.

III. I AFFIRM that, according to the obvious, indiſputable meaning of the legiſlature, repeatedly

* 4. *Inſt.* 41. 66.

expreſſed

expreſſed, a perſon poſitively charged with *feloniouſly ſtealing* and taken *in flagrante delicto*, with the ſtolen goods upon him, is *not bailable*. The law conſiders him as differing in nothing from a *convict*, but in the form of conviction; and (whatever a corrupt judge may do) will accept of no ſecurity, but the confinement of his body within four walls. I know it has been alledged in your favour, that you have often bailed for murders, rapes, and other manifeſt crimes. Without queſtioning the fact, I ſhall not admit that you are to be juſtified by your own example. If that were a protection to you, where is the crime that, as a judge, you might not now ſecurely commit? But neither ſhall I ſuffer myſelf to be drawn aſide from my preſent argument, nor *you* to profit by your own wrong.—To prove the meaning and intent of the legiſlature will require a minute and tedious deduction. To inveſtigate a queſtion of law demands ſome labour and attention, though very little genius or ſagacity. As a practical profeſſion, the ſtudy of the law requires but a moderate portion of abilities. The learning of a pleader is uſually upon a level with his integrity. The indiſcriminate defence of right and wrong contracts the underſtanding, while it corrupts the heart. Subtlety is ſoon miſtaken for wiſdom, and impunity for virtue. If there be any inſtances upon record, as ſome there are undoubtedly, of genius and morality united in a lawyer, they are diſtinguiſhed by their ſingularity, and operate as exceptions.

I MUST ſolicit the patience of my readers. This is no light matter, nor is it any more ſuſceptible of ornament

ornament, than the conduct of Lord Mansfield is capable of aggravation.

As the law of bail, in charges of felony, has been exactly ascertained by acts of the legislature, it is at present of little consequence to enquire how it stood at common law, before the statute of Westminster. And yet it is worth the reader's attention to observe, how nearly, in the ideas of our ancestors, the circumstance of being taken *with the maner* approached to the conviction of the felon *. It "fixed the authoritative stamp of verisimilitude "upon the accusation, and, by the common law, "when a thief was taken *with the maner* (that is, "with the thing stolen upon him, *in manu)* he "might, so detected *flagrante delicto*, be brought "into court, arraigned and tried, *without indict-* "*ment*; as, by the Danish law, he might be ta- "ken and hanged upon the spot, without accusa- "tion or trial." It will soon appear that our statute law, in this behalf, though less summary in point of proceeding, is directed by the same spirit. In one instance, the very form is adhered to. In offences relating to the forest, if a man was taken with vert, or venison †, it was declared to be equivalent to indictment. To enable the reader to judge for himself, I shall state, in due order, the several statutes relative to bail in criminal cases, or as much of them as may be material to the point in question, omitting superfluous words. If I misrepresent, or do not quote with fidelity, it will not be difficult to detect me.

* *Blackstone*, 4. 303.

† 1 *Ed.* III. *cap.* 8.---and 7 *Rich.* II. *cap.* 4.

* THE

* The ſtatute of Weſtminſter the firſt, in 1275, ſets forth that, "Foraſmuch as Sheriffs and others, "who have taken and kept in priſon perſons de- "tected of felony, and incontinent have let out by "replevin ſuch as were *not repleviſable*, becauſe they "would gain of the one party and grieve the other; "and, foraſmuch as, before this time, it was not "determined which perſons were repleviſable and "which not, it is provided and by the King com- "manded that ſuch priſoners, &c. as be *taken with "the maner*, &c. or for *manifeſt* offences, ſhall be "*in no wiſe* repleviſable by the common writ, nor "without writ." †—Lord Coke, in his expoſition of the laſt part of this quotation, accurately diſtinguiſhes between *replevy* by the common writ or ex officio, and *bail* by the King's Bench. The words of the ſtatute certainly do not extend to the judges of that court. But, beſides that the reader will ſoon find reaſon to think that the legiſlature, in their intention, made no difference between *bailable* and *repleviſable*, Lord Coke himſelf (if he be underſtood to mean nothing but an expoſition of the ſtatute of Weſtminiſter, and not to ſtate the law generally) does not adhere to his own diſtinction. In expounding the other offences, which, by this

* "*Videtur que le ſtatute de mainpriſe neſt que reherſall del comen "ley.*" Bro. Mainp. 61.

† "There are three points to be conſidered in the conſtruction of "all remedial ſtatutes;—the old law, the miſchief, and the reme- "dy;—that is, how the common law ſtood at the making of the act, "what the miſchief was for which the common law did not provide, "and what remedy the parliament hath provided to cure this miſ- "chief. It is the buſineſs of the judges, ſo to conſtrue the act, as to "ſuppreſs the miſchief and advance the remedy."

Blackſtone, 1. 87.

ſtatute,

ſtatute, are declared *not repleviſable*, he conſtantly uſes the words *not bailable*.—"That outlaws, for "inſtance, are *not bailable at all*; that perſons, "who have abjured the realm, are attainted upon "their own confeſſion, and therefore *not bailable at* "*all by law*;—that provers are *not bailable*;—that "notorious felons are *not bailable*." The reaſon, why the ſuperior courts were not named in the ſtatute of Weſtminſter, was plainly this, "becauſe "antiently moſt of the buſineſs, touching bailment "of priſoners for felony or miſdemeanors, was per-"formed by the Sheriffs, or ſpecial bailiffs of liber-"ties, either by writ, or *virtute officii**;" conſequently the ſuperior courts had little or no opportunity to commit thoſe abuſes, which the ſtatute imputes to the Sheriffs.—With ſubmiſſion to Doctor Blackſtone, I think he has fallen into a contradiction, which, in terms at leaſt, appears irreconcileable. After enumerating ſeveral offences not bailable, he aſſerts, without any condition or limitation whatſoever†, "all theſe are clearly not admiſſible to "bail." Yet in a few lines after he ſays, "*it is* "*agreed* that the court of King's Bench may bail "for any crime whatſoever, *according to circumſtan-*"*ces of* the caſe." To his firſt propoſition he ſhould have added, *by Sheriffs or Juſtices*; otherwiſe the two propoſitions contradict each other; with this difference however, that the firſt is abſolute, the ſecond limited by *a conſideration of circumſtances*. I ſay this without the leaſt intended diſreſpect to the

* 2 *Hale*, P. C. 128. 136.

† *Blackſtone*, 4. 296.

learned

learned author. His work is of public utility, and ſhould not haſtily be condemned.

THE ſtatute of 17 *Richard* II. *cap.* 10. 1393, ſets forth, that "foraſmuch as thieves notoriouſly de-"famed, *and others taken with the maner*, by their "long abiding in priſon, were delivered by charters, "and favourable inqueſts procured, to the great "hindrance of the people, two men of law ſhall be "aſſigned, in every commiſſion of the peace, to "proceed to the deliverance of ſuch felons, &c." It ſeems by this act, that there was a conſtant ſtruggle between the legiſlature and the officers of juſtice. Not daring to admit felons *taken with the maner* to bail or mainprize, they evaded the law by keeping the party in priſon a long time, and then delivering him without due trial.

THE ſtatute of 1 *Richard* III. in 1483, ſets forth, that "foraſmuch as divers perſons have been daily "arreſted and impriſoned for *ſuſpicion* of felony, "ſometime of malice, and ſometime of *a light ſuſ-"picion*, and ſo kept in priſon without bail or main-"prize, be it ordained that every juſtice of peace "ſhall have authority, by his diſcretion, to let ſuch "priſoners and perſons ſo arreſted to bail or main-"prize."—By this act it appears that there had been abuſes in matter of impriſonment, and that the legiſlature meant to provide for the immediate enlargement of perſons arreſted on *light ſuſpicion* of felony.

THE ſtatute of 3 Henry VII. in 1486, declares, that "under colour of the preceding act of Richard "the Third, perſons, *ſuch as were not mainpernable*, "were oftentimes let to bail or mainprize, by juſ-

" tices of the peace, whereby many murderers and " felons eſcaped, the King, &c. hath ordained, that " the juſtices of the peace, or two of them at leaſt " (whereof one to be of the *quorum*) have authority " to let any ſuch priſoners or perſons, mainpernable " by the law, to bail or mainprize."

THE ſtatute of 1ſt and 2d of Philip and Mary, in 1554, ſets forth, that " notwithſtanding the pre- " ceding ſtatute of Henry the Seventh, *one* juſtice " of peace hath oftentimes, by ſiniſter labour and " means, ſet at large the greateſt and notableſt offen- " ders, *ſuch as be not repleviſable by the laws of this* " *realm*, and yet, the rather to hide their affections " in that behalf, have ſigned the cauſe of their ap- " prehenſion to be but only for *ſuſpicion* of felony, " whereby the ſaid offenders have eſcaped unpu- " niſhed, and do daily, to the high diſpleaſure of " Almighty God, the great peril of the King and " Queen's true ſubjects, and encouragement of all " thieves and evil-doers;—for reformation where- " of be it enacted, that no juſtices of peace ſhall let " to bail or mainprize any ſuch perſons, which, for " any offence by them committed, be declared *not* " to be *repleviſed*, or *bailed*, or be forbidden to be " *repleviſed* or *bailed* by the ſtatute of Weſtminſter " the firſt; and furthermore that any perſons, ar- " reſted for manſlaughter, felony, *being bailable by* " *the law*, ſhall not be let to bail or mainprize, by " any juſtices of peace, but in the form therein after " preſcribed."—In the two preceding ſtatutes, the words *bailable*, *repleviſable*, and *mainpernable* are uſed ſynonymouſly *, or promiſcuouſly to expreſs

* 2 *Hale*, P. C. 2. 124.

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the ſame ſingle intention of the legiſlature, viz. *not to accept of any ſecurity but the body of the offender*; and when the latter ſtatute preſcribes the form, in which perſons arreſted on *ſuſpicion* of felony *(being bailable by the law)* may be let to bail, it evidently ſuppoſes that there are ſome caſes, *not* bailable by the law.—It may be thought perhaps, that I attribute to the legiſlature an appearance of inaccuracy in the uſe of terms, merely to ſerve my preſent purpoſe. But, in truth, it would make more forcibly for my argument to preſume that the legiſlature were conſtantly aware of the ſtrict legal diſtinction between *bail* and *replevy*, and that they always meant to adhere to it*. For if it be true that *replevy* is by the Sheriffs, and *bail* by the higher courts at Weſtminſter, (which I think no lawyer will deny) it follows that, when the legiſlature expreſsly ſay, that any particular offence is by law *not bailable*, the ſuperior courts are comprehended in the prohibition, and bound by it. Otherwiſe, unleſs there was a poſitive exception of the ſuperior courts (which I affirm there never was in any ſtatute relative to bail) the legiſlature would groſsly contradict themſelves, and the manifeſt intention of the law be evaded. It is an eſtabliſhed rule that, when the law is *ſpecial*, and reaſon of it general, it is to be *generally* underſtood; and though, by cuſtom, a latitude be allowed to the court of King's Bench, (to conſider circumſtances inductive of a doubt whether the priſoner be guilty or innocent) if this latitude be taken as

* *Vide* 2 Inſt. 150. 186.—"The word *repleviſable* never ſignifies "*bailable*. *Bailable* is in a court of record by the King's juſtices; "but *repleviſable* is by the Sheriff."

Selden, State Tr. 7. 149.

an arbitrary power to bail, when no circumſtances whatſoever are alledged in favour of the priſoner, it is a power without right, and a daring violation of the whole Engliſh law of bail.

THE act of the 31ſt of Charles the Second (commonly called the *Habeas Corpus act*) particularly declares, that it is not meant to extend to treaſon or felony plainly and ſpecially expreſſed in the warrant of commitment. The priſoner is therefore left to ſeek his *Habeas Corpus* at common law; and ſo far was the legiſlature from ſuppoſing that perſons, (committed for treaſon or felony plainly and ſpecially expreſſed in the warrant of commitment) could be let to bail by a ſingle judge, or by the whole court, that this very act provides a remedy for ſuch perſons, in caſe they are not indicted in the courſe of the term or ſeſſions ſubſequent to their commitment. The law neither ſuffers them to be enlarged before trial, nor to be impriſoned after the time, in which they ought regularly to be tried. In this caſe the law ſays, "It ſhall and may be lawful to and for "the judges of the court of King's Bench and juſ- "tices of oyer and terminer, or general goal delive- "ry, and they are hereby required, upon motion "to them made in open court, the laſt day of the "term, ſeſſion, or goal delivery, either by the pri- "ſoner or any one in his behalf, to ſet at liberty the "priſoner upon bail; unleſs it appear to the judges "and juſtices, upon oath made, that the witneſſes "for the King could not be produced the ſame "term, ſeſſions, or goal delivery,"—Upon the whole of this article I obſerve, 1. That the proviſion, made in the firſt part of it, would be, in a great meaſure,

meaſure, uſeleſs and nugatory, if any ſingle judge might have bailed the priſoner *ex arbitrio*, during the vacation; or if the court might have bailed him immediately after the commencement of the term or ſeſſions.——2. When the law ſays, *It ſhall and may be lawful* to bail for felony under particular circumſtances, we muſt preſume that, before the paſſing of that act, it was *not* lawful to bail under thoſe circumſtances. The terms uſed by the legiſlature are *enacting*, not *declaratory*.—3. Notwithſtanding the party may have been impriſoned during the greateſt part of the vacation, and during the whole ſeſſion, the court are expreſsly forbidden to bail him from that ſeſſion to the next, if oath be made that the witneſſes for the King could not be produced that ſame term or ſeſſions.

HAVING faithfully ſtated the ſeveral acts of parliament relative to bail in criminal caſes, it may be uſeful to the reader to take a ſhort, hiſtorical review of the law of bail, through its various gradations and improvements.

BY the ancient common law, before and ſince the conqueſt, all felonies were bailable, till murder was excepted by ſtatute, ſo that perſons might be admitted to bail, before conviction, almoſt in every caſe. The ſtatute of Weſtminſter ſays that, before that time, it had not been determined, which offences were repleviſable, and which were not, whether by the common writ *de homine replegiando*, or *ex officio* by the Sheriff. It is very remarkable that the abuſes ariſing from this unlimited power of replevy, dreadful as they were and deſtructive to the peace of ſociety, were not corrected or taken no-

tice of by the legiſlature, until the commons of the kingdom had obtained a ſhare in it by their repreſentatives; but the houſe of commons had ſcarce begun to exiſt, when theſe formidable abuſes were corrected by the ſtatute of Weſtminſter. It is highly probable that the miſchief had been ſeverely felt by the people, although no remedy had been provided for it by the Norman Kings or Barons. * "The iniquity of the times was ſo great, as it "even forced the ſubjects to forego that, which "was in account a great liberty, to ſtop the "courſe of a growing miſchief." The preamble to the ſtatutes, made by the firſt parliament of Edward the firſt, aſſigns the reaſon of calling it, † "becauſe the people had been otherwiſe en-"treated than they ought to be, the peace leſs "kept, the laws leſs uſed, and *offenders leſs puniſhed* than they ought to be, by reaſon whereof "the people feared leſs to offend;" and the firſt attempt to reform theſe various abuſes was by contracting the power of replevying felons.

FOR above two centuries following it does not appear that any alteration was made in the law of bail, except that *being taken with vert or veniſon* was declared to be equivalent to indictment. The legiſlature adhered firmly to the ſpirit of the ſtatute of Weſtminſter. The ſtatute of 27th of Edward the Firſt directs the juſtices of aſſize to enquire and puniſh officers bailing ſuch as were *not bailable*. As for the judges of the ſuperior courts, it is probable that, in thoſe days, they thought themſelves bound

* *Selden*, by *N. Bacon*. 182.

† Parliamentary Hiſtory. 1. 82.

by

by the obvious intent and meaning of the legiſlature. They conſidered not ſo much to what particular perſons the prohibition was addreſſed, as what the *thing* was, which the legiſlature meant to prohibit, well knowing that in law, *quando aliquid prohibetur, prohibetur et omne, per quod devenitur ad illud.* "When any thing is forbidden, all means, "by which the ſame thing may be compaſſed or "done, are equally forbidden."

By the ſtatute of Richard the Third, the power of bailing was a little enlarged. Every juſtice of peace was authoriſed to bail for felony; but they were expreſſly confined to perſons arreſted *on light ſuſpicion*; and even this power, ſo limited, was found to produce ſuch inconveniencies that, in three years after, the legiſlature found it neceſſary to repeal it. Inſtead of truſting any longer to a ſingle juſtice of peace, the act of 3d Henry VIIth, repeals the preceding act, and directs "that no "priſoner, *(of thoſe who are mainpernable by the "law)* ſhall be let to bail or mainpriſe, by leſs "than *two* juſtices, whereof one to be of the quo-"rum." And ſo indiſpenſably neceſſary was this proviſion thought, for the adminiſtration of juſtice, and for the ſecurity and peace of ſociety, that, at this time, an oath was propoſed by the King to be taken by the knights and eſquires of his houſehold, by the members of the houſe of commons, and by the peers ſpiritual and temporal, and accepted and ſworn to *quaſi una voce* by them all, which, among other engagements, binds them "not to let any "man to bail or mainpriſe, knowing and deeming "him to be a felon, upon your honour and wor-

"ſhip. So help you God and all Saints."

In about half a century however even theſe proviſions were found inſufficient. The act of Henry the Seventh was evaded, and the legiſlature once more obliged to interpoſe. The act of 1ſt and 2d of Philip and Mary takes away intirely from the juſtices all power of bailing for offences declared *not bailable* by the ſtatute of Weſtminſter.

The illegal impriſonment of ſeveral perſons, who had refuſed to contribute to a loan exacted by Charles the firſt, and the delay of the *Habeas Corpus* and ſubſequent refuſal to bail them, conſtituted one of the firſt and moſt important grievances of that reign. Yet when the houſe of commons, which met in the year 1628, reſolved upon meaſures of the moſt firm and ſtrenuous reſiſtance to the power of impriſonment aſſumed by the King or privy-council, and to the refuſal to bail the party on the return of the *Habeas Corpus*, they did expreſsly, in all their reſolutions, make an exception of commitments, where the cauſe of the reſtraint was expreſſed, and did by law juſtify the commitment. The reaſon of the diſtinction is, that, whereas when the cauſe of commitment is expreſſed, the crime is then known, and the offender muſt be brought to the ordinary trial; if, on the contrary, no cauſe of commitment be expreſſed, and the priſoner be thereupon remanded, it may operate to perpetual impriſonment. This conteſt with Charles the firſt produced the act of the 16th of that King, by which the court of King's Bench are directed, within three days after the return of the *Habeas Corpus* to examine and determine the legality of any commitment by the

[9] Parliamentary Hiſtory. 2. 419.

King

King or privy council, and to do *what to juſtice ſhall appertain* in delivering, bailing, or *remanding* the priſoner.—*Now*, it ſeems, it is unneceſſary for the judge to do what appertains to juſtice. The ſame ſcandalous traffic, in which we have ſeen the privilege of parliament exerted or relaxed, to gratify the preſent humour, or to ſerve the immediate purpoſe of the crown, is introduced into the adminiſtration of juſtice. The magiſtrate, it ſeems, has now no rule to follow, but the dictates of perſonal enmity, national partiality, or perhaps the moſt proſtituted corruption.

To compleat this hiſtorical inquiry, it only remains to be obſerved that, the *Habeas Corpus* act of 31ſt of Charles the ſecond, ſo juſtly conſidered as another Magna Charta of the kingdom * "extends only to the caſe of commitments for ſuch "criminal charge, as can produce no inconveni"ence to public juſtice by a temporary enlarge"ment of the priſoner."—So careful were the legiſlature, at the very moment, when they were providing for the liberty of the ſubject, not to furniſh any colour or pretence for violating or evading the eſtabliſhed law of bail in the higher criminal offences. But the exception, ſtated in the body of the act, puts the matter out of all doubt. After directing the judges how they are to proceed to the diſcharge of the priſoner upon recogniſance and ſurety, having regard to the quality of the priſoner and nature of the offence, it is expreſsly added, "unleſs it ſhall appear to the ſaid Lord Chancel"lor, &c. that the party, ſo committed, is de"tained for ſuch matters, or offences, for the

* Blackſtone. 4. 137.

"which.

" which, BY THE LAW THE PRISONER IS NOT " BAILABLE."

WHEN the laws, plain of themſelves, are thus illuſtrated by facts, and their uniform meaning eſtabliſhed by hiſtory, we do not want the authority of opinions however reſpectable, to inform our judgment or to confirm our belief. But I am determined that you ſhall have no eſcape. Authority of every ſort ſhall be produced againſt you, from *Jacob* to *Lord Coke*, from the dictionary to the claſſic.—In vain ſhall you appeal from thoſe upright judges, whom you diſdain to imitate, to thoſe whom you have made your example. With one voice, they all condemn you.

" TO be taken with the *maner* is where a thief, " having ſtolen any thing, is taken with the ſame " about him, as it were in his hands, which is " called *flagrante delicto*. Such a criminal is *not* " *bailable by law*."—*Jacob under the word Maner.*

" THOSE, who are taken with the *Maner*, are " excluded, by the ſtatute of Weſtminſter, from " the benefit of a replevin."—*Hawkins. P. C.* 2. 98.

" OF ſuch heinous offences no one, who is no- " toriouſly guilty, ſeems to be *bailable* by the in- " tent of this ſtatute."—*D°.* 2. 99.

" THE common practice, and allowed general " rule is, that bail is only then proper where it " ſtands *indifferent* whether the party were guilty " or innocent."—*D°. D°.*

" THERE is no doubt but that the bailing of a " perſon, *who is not bailable by law*, is puniſha- " ble, either at common law as a negligent eſcape,

" or

" or as an offence againſt the ſeveral ſtatutes re-
" lative to bail."—*D°.* 89.

" It cannot be doubted but that, neither the
" judges of this, nor of any other ſuperior court
" of juſtice, are ſtrictly within the purview of
" that ſtatute, yet they will always, in their diſ-
" cretion, pay a due regard to it, and not admit
" a perſon to bail, who is expreſsly declared by it
" irrepleviſable, *without ſome particular circum-*
" *ſtance in his favour*; and therefore it ſeems dif-
" ficult to find an inſtance, where perſons, at-
" tainted of felony, or notoriouſly guilty of trea-
" ſon or manſlaughter, &c. by their own confeſ-
" ſion, or *otherwiſe*, have been admitted to the
" benefit of bail, without ſome ſpecial motive to
" the court to grant it."—*D°.* 114.

" If it appears that any man hath injury or
" wrong by his impriſonment, we have power to
" deliver and diſcharge him;—if otherwiſe, *he is*
" *remanded* by us to priſon again."—*Lord Chief J. Hyde. State Trials.* 7. 115.

" The ſtatute of Weſtminſter was eſpecially
" for direction to the Sheriffs and others, but to
" ſay courts of juſtice are excluded from this ſta-
" tute, I conceive it cannot be."—*Attorney General Heath. D°.* 132.

" The court, upon view of the return, judg-
" eth of the ſufficiency or inſufficiency of it. If
" they think the priſoner *in law* to be *bailable*, he
" is committed to the Marſhal and bailed; if not,
" he is remanded."—Through the whole debate the objection, on the part of the priſoners, was, that no cauſe of commitment was expreſſed in the warrant;

warrant; but it was uniformly admitted by their council that, if the commitment had been expreſſed for treaſon or felony, the court would then have done right in remanding them.

THE Attorney General having urged, before a committee of both houſes, that, in Beckwith's caſe and others, the lords of the council ſent a letter to the court of King's Bench to bail; it was replied by the managers of the houſe of commons, that this was of no moment, "for that either the "priſoner *was bailable by the law*, or *not bailable*; "—if bailable by the law, then he was to be "bailed without any ſuch letter;—if not bailable "by the law, then plainly the judges could not "have bailed him upon the letter, without breach "of their oath, which is, *that they are to do juſ-"tice according to the law, &c.*"—*State Trials.* 7. 175.

"So that, in bailing upon ſuch offences of the "higheſt nature, a kind of diſcretion, rather than "a conſtant law, hath been exerciſed, when it "ſtands *wholly indifferent* in the eye of the court, "whether the priſoner be guilty or not."—*Selden. St. Tr.* 7. 230. 1.

"I DENY that a man is always bailable, when "impriſonment is impoſed upon him for cuſtody." *Attorney General Heath. D°.* 238.—By theſe quotations from the State Trials, though otherwiſe not of authority, it appears plainly that, in regard to *bailable* or *not bailable*, all parties agreed in admitting one propoſition as incontrovertible.

"IN relation to capital offences there are eſpeci-"ally theſe acts of parliament that are the common

"*landmarks*

" *landmarks* * touching offences bailable or not bail-
" able." *Hale.* 2. *P. C.* 127. The enumeration includes the ſeveral acts cited in this paper.

" PERSONS, taken with the *Manouvre*, are not " bailable, becauſe it is *furtum manifeſtum.*" *Hale.* 2. *P. C.* 133.

" THE writ of *Habeas Corpus* is of a high nature; " for if perſons be wrongfully committed, they are " to be diſcharged upon this writ returned; or, if " bailable, they are to be bailed;—*if not bailable,* " *they are to be committed.*" *Hale.* 2. *P. C.* 143. This doctrine of Lord Chief Juſtice Hale refers immediately to the ſuperior courts from whence the writ iſſues.——" After the return is filed, the court " is either to diſcharge, or bail, or *commit* him, as " the nature of the caſe requires." *Hale.* 2. *P. C.* 146.

" IF bail be granted, *otherwiſe than the law al-* " *loweth*, the party that alloweth the ſame, ſhall be " fined, impriſoned, render damages, or forfeit his " place, as the caſe ſhall require." *Selden by N. Bacon.* 182.

" THIS induces an abſolute neceſſity of expreſſ- " ing, upon every commitment, the reaſon, for " which it is made; that the court, upon a *Habeas* " *Corpus*, may examine into its validity, and, *ac-* " *cording to the circumſtances of the caſe*, may diſ- " charge, admit to bail, or *remand* the priſoner." *Blackſtone.* 3. 133.

" MARRIOT was commited for forging indorſe- " ments upon bank bills, and, upon a *Habeas Cor-* " *pus*, was bailed, becauſe the crime was only a

* It has been the ſtudy of Lord Mansfield to remove landmarks.

" great

" great miſdemeanor;—for though the forging the " bills be felony, yet forging the indorſement is " not." *Salkeld.* 1. 104.

" APPELL de Mahem, &c. ideo ne fuit leſſe a " baille, nient plus que in appell de robbery ou " murder; quod nota, et que in robry et murder le " partie n'eſt baillable." *Bro. Mainpriſe.* 67.

" THE intendment of the law in bails is, *quod ſtat* " *indifferenter* whether he be guilty or no; but, " when he is convict by verdict or confeſſion, then " he muſt be deemed in law to be guilty of the fe- " lony, and therefore *not bailable at all.*" *Coke.* 2. *Inſt.* 188.—4. 178.

" BAIL is *quando ſtat indifferenter*, and *not* when " the offence is open and manifeſt." 2. *Inſt.* 189.

" IN this caſe *non ſtat indifferenter* whether he be " guilty or no, being taken with the *Maner*, that is, " with the thing ſtolen, as it were in his hand." *D°. D°.*

" IF it appeareth that this impriſonment be juſt " and lawful, he *ſhall* be *remanded* to the former " goaler; but, if it ſhall appear to the court that " he was impriſoned againſt the law of the land, " they ought, by force of this ſtatute, to deliver " him; if it be *doubtful*, and under conſideration, he " may be bailed." 2. *Inſt.* 55.

IT is unneceſſary to load the reader with any farther quotations. If theſe authorities are not deemed ſufficient to eſtabliſh the doctrine maintained in this paper, it will be in vain to appeal to the evidence of law-books, or to the opinions of judges. They are not the authorities, by which Lord Mansfield will abide. He aſſumes an arbitrary power of doing right;

right; and, if he does wrong, it lies only between God and his conſcience.

Now, my Lord, although I have great faith in the preceding argument, I will not ſay, that every minute part of it is abſolutely invulnerable. I am too well acquainted with the practice of a certain court, directed by your example, as it is governed by your authority, to think there ever yet was an argument, however conformable to law and reaſon, in which a cunning, quibbling attorney might not diſcover a flaw. But, taking the whole of it together, I affirm that it conſtitutes a maſs of demonſtration, than which nothing more compleat or ſatisfactory can be offered to the human mind. How an evaſive, indirect reply will ſtand with your reputation, or how far it will anſwer in point of defence at the bar of the houſe of lords, is worth your conſideration. If, after all that has been ſaid, it ſhould ſtill be maintained, that the court of King's Bench, in bailing felons, are exempted from all legal rules whatſoever, and that the judge has no direction to purſue, but his private affections, or mere unqueſtionable will and pleaſure, it will follow plainly, that the diſtinction between *bailable* and *not bailable*, uniformly expreſſed by the legiſlature, current through all our law-books, and admitted by all our great lawyers without exception, is in one ſenſe a nugatory, in another a pernicious diſtinction. It is nugatory, as it ſuppoſes a difference in the bailable quality of offences, when, in effect, the diſtinction refers only to the rank of the magiſtrate. It is pernicious, as it implies a rule of law, which yet the judge

judge is not bound to pay the leaſt regard to, and impreſſes an idea upon the minds of the people, that the judge is wiſer and greater than the law.

It remains only to apply the law, thus ſtated, to the fact in queſtion. By an authentic copy of the *mittimus* it appears that John Eyre was committed for felony, plainly and ſpecially expreſſed in the warrant of commitment. He was charged before Alderman Halifax by the oath of Thomas Fielding, William Holder, William Payne, and William Naſh, for *feloniouſly ſtealing* eleven quires of writing-paper, value ſix ſhillings, the property of Thomas Beach, &c.—by the examinations, upon oath, of the four perſons mentioned in the *mittimus*, it was proved, that large quantities of paper had been miſſed, and that eleven quires (previouſly marked from a ſuſpicion that Eyre was the thief) were found upon him. Many other quires of paper, marked in the ſame manner, were found at his lodgings; and after he had been ſometime in Wood-ſtreet Compter, a key was found in his room there, which appeared to be a key to the cloſet at Guildhall, from whence the paper was ſtolen. When aſked what he had to ſay in his defence, his only anſwer was, *I hope you will bail me.* Mr. Holder, the Clerk, replied, *That is impoſſible. There never was an inſtance of it, when the ſtolen goods were found upon the thief.* The Lord Mayor was then applied to, and refuſed to bail him.—Of all theſe circumſtances it was your duty to have informed yourſelf minutely. The fact was remarkable, and the chief magiſtrate of the city of London was known to have refuſed to bail the offender.

fender. To juſtify your compliance with the ſolicitations of your three countrymen, it ſhould be proved that ſuch allegations were offered to you, in behalf of their aſſociate, as honeſtly and *bona fide* reduced it to a matter of doubt and indifference whether the priſoner was innocent or guilty.—Was any thing offered by the Scotch triumvirate that tended to invalidate the poſitive charge made againſt him by four credible witneſſes upon oath?—Was it even inſinuated to you, either by himſelf or his bail, that no felony was committed;—or that *he* was not the felon;—that the ſtolen goods were *not* found upon him;—or that he was only the receiver, not knowing them to be ſtolen?—Or, in ſhort, did they attempt to produce any evidence of his inſanity?—To all theſe queſtions, I anſwer for you, without the leaſt fear of contradiction, poſitively NO. From the moment he was arreſted, he never entertained any hope of acquittal; therefore thought of nothing but obtaining bail, that he might have time to ſettle his affairs, convey his fortune into another country, and ſpend the remainder of his life in comfort and affluence abroad. In this prudential ſcheme of future happineſs, the Lord Chief Juſtice of England moſt readily and heartily concurred. At ſight of ſo much virtue in diſtreſs, your natural benevolence took the alarm. Such a man as Mr. Eyre, ſtruggling with adverſity, muſt always be an intereſting ſcene to Lord Mansfield.—Or was it that liberal anxiety, by which your whole life has been diſtinguiſhed, to enlarge the liberty of the ſubject?—My Lord, we did not want this new inſtance of the li-

berality of your principles. We already knew what kind of ſubjects they were, for whoſe liberty you were anxious. At all events, the public are much indebted to you for fixing a price, at which felony may be committed with impunity. You bound a felon, notoriouſly worth thirty thouſand pounds, in the ſum of three hundred. With your natural turn to equity, and knowing, as you are, in the doctrine of precedents, you undoubtedly meant to ſettle the proportion between the fortune of the felon, and the fine, by which he may compound for his felony. The ratio now upon record, and tranſmitted to poſterity under the auſpices of Lord Mansfield, is exactly one to a hundred.—My Lord, without intending it, you have laid a cruel reſtraint upon the genius of your countrymen. In the warmeſt indulgence of their paſſions, they have an eye to the expence, and if their other virtues fail us, we have a reſource in their œconomy.

By taking ſo trifling a ſecurity from John Eyre, you invited and manifeſtly exhorted him to eſcape. Although in bailable caſes, it be uſual to take four ſecurities, you left him in the cuſtody of three Scotchmen, whom he might have eaſily ſatisfied for conniving at his retreat. That he did not make uſe of the opportunity you induſtriouſly gave him neither juſtifies your conduct, nor can it be any way accounted for, but by his exceſſive and monſtrous avarice. Any other man, but this boſom-friend of three Scotchmen, would gladly have ſacrificed a few hundred pounds, rather than to ſubmit to the infamy of pleading guilty in open court. It is poſ-

ſible

ſible indeed that he might have flattered himſelf, and not unreaſonably, with the hopes of a pardon. That he would have been pardoned ſeems more than probable, if I had not directed the public attention to the leading ſtep you took in favour of him. In the preſent gentle reign, we well know what uſe has been made of the lenity of the court and of the mercy of the crown. The Lord Chief Juſtice of England accepts of the hundredth part of the property of a felon taken in the fact, as a recognizance for his appearance. Your brother *Smythe* brow-beats a jury, and forces them to alter their verdict, by which they had found a Scotch ſerjeant guilty of murder; and though the Kennedies were convicted of a moſt deliberate and atrocious murder, they ſtill had a claim to the royal mercy.—They were ſaved by the chaſtity of their connexions.—They had a ſiſter;—yet it was not her beauty, but the pliancy of her virtue that recommended her to the King.—The holy author of our religion was ſeen in the company of ſinners; but it was his gracious purpoſe to convert them from their ſins. Another man, who in the ceremonies of our faith might give leſſons to the great enemy of it, upon different principles keeps much the ſame company. He advertiſes for patients, collects all the diſeaſes of the heart, and turns a royal palace into an hoſpital for incurables.—A man of honour has no ticket of admiſſion at St. James's. They receive him, like a virgin at the Magdalen's;—*Go thou and do likewiſe.*

My charge againſt you is now made good. I ſhall however be ready to anſwer or to ſubmit to fair objections. If, whenever this matter ſhall be agitated, you ſuffer the doors of the houſe of lords to be ſhut, I now proteſt, that I ſhall conſider you as having made no reply. From that moment, in the opinion of the world, you will ſtand ſelf-convicted. Whether your reply be quibbling and evaſive, or liberal and in point, will be matter for the judgment of your peers;—but if, when every poſſible idea of diſreſpect to that noble houſe, (in whoſe honour and juſtice the nation implicitly confides) is here moſt ſolemnly diſclaimed, you ſhould endeavour to repreſent this charge, as a contempt of their authority, and move their lordſhips to cenſure the publiſher of this paper, I then affirm that you ſupport injuſtice by violence, that you are guilty of a heinous aggravation of your offence, and that you contribute your utmoſt influence to promote, on the part of the higheſt court of judicature, a poſitive denial of juſtice to the nation

JUNIUS.

LETTER LXIX.

TO THE RIGHT HON. LORD CAMDEN.

MY LORD,

I TURN with pleaſure, from that barren waſte, in which no ſalutary plant takes root, no verdure quickens, to a character fertile, as I willingly believe, in every great and good qualification. I call upon you, in the name of the Engliſh nation, to ſtand forth in defence of the laws of your country, and to exert, in the cauſe of truth and juſtice, thoſe great abilities, with which you were entruſted for the benefit of mankind. To aſcertain the facts, ſet forth in the preceding paper, it may be neceſſary to call the perſons, mentioned in the *mittimus*, to the bar of the houſe of lords. If a motion for that purpoſe ſhould be rejected, we ſhall know what to think of Lord Mansfield's innocence. The legal argument is ſubmitted to your lordſhip's judgment. After the noble ſtand you made againſt Lord Mansfield upon the queſtion of libel, we did expect that you

you would not have ſuffered that matter to have remained undetermined. But it was ſaid that Lord Chief Juſtice Wilmot had been *prevailed upon* to vouch for an opinion of the late Judge Yates, which was ſuppoſed to make againſt you; and we admit of the excuſe. When ſuch deteſtable arts are employed to prejudge a queſtion of right, it might have been imprudent, at that time, to have brought it to a deciſion. In the preſent inſtance you will have no ſuch oppoſition to contend with. If there be a judge, or a lawyer of any note in Weſtminſter-hall, who ſhall be daring enough to affirm that, according to the true intendment of the laws of England, a felon, taken with the *Maner, in flagranti delicto*, is bailable; or that the diſcretion of an Engliſh judge is merely arbitrary, and not governed by rules of law,—I ſhould be glad to be acquainted with him. Whoever he be, I will take care that he ſhall not give you much trouble. Your lordſhip's character aſſures me that you will aſſume that principal part, which belongs to you, in ſupporting the laws of England, againſt a wicked judge, who makes it the occupation of his life, to miſinterpret and pervert them. If you decline this honourable office, I fear it will be ſaid that, for ſome months paſt, you have kept too much company with the Duke of Grafton. When the conteſt turns upon the interpretation of the laws, you cannot, without a formal ſurrender of all your reputation, yield the poſt of honour even to Lord Chatham. Conſidering the ſituation and abilities of Lord Mansfield, I do not ſcruple to affirm, with the moſt ſolemn appeal

peal to God for my ſincerity, that, in *my* judgment, he is the very worſt and moſt dangerous man in the kingdom. Thus far I have done my duty in endeavouring to bring him to puniſhment. But mine is an inferior, miniſterial office in the temple of juſtice. —I have bound the victim, and dragged him to the altar.

JUNIUS.

THE

THE Reverend Mr. John Horne having with his uſual veracity and honeſt induſtry, circulated a report that Junius, in a letter to the Supporters of the Bill of Rights, had warmly declared himſelf in favour of long parliaments and rotten boroughs, it is thought neceſſary to ſubmit to the public the following extract from his letter to John Wilkes, Eſq; dated 7th of September 1771, and laid before the ſociety on the 24th of the ſame month.

"WITH regard to the ſeveral articles, taken "ſeparately, I own I am concerned to ſee that the "great condition, which ought to be the *ſine qua* "*non* of parliamentary qualification,—which ought "to be the baſis (as it aſſuredly will be the only "ſupport) of every barrier raiſed in defence of the "conſtitution, I mean *a declaration upon oath to* "*ſhorten the duration of parliaments*, is reduced to "the fourth rank in the eſteem of the ſociety; "and, even in that place, far from being inſiſted "on with firmneſs and vehemence, ſeems to have "been particularly ſlighted in the expreſſion.—*You* "*ſhall endeavour to reſtore annual parliaments!*— "Are theſe the terms, which men, who are in "earneſt, make uſe of, when the *ſalus reipublicæ* "is at ſtake?—I expected other language from "Mr. Wilkes.—Beſides my objection in point of

"form,

" form, I diſapprove highly of the meaning of the
" fourth article as it ſtands. Whenever the queſ-
" tion ſhall be ſeriouſly agitated, I will endeavour
" (and if I live will aſſuredly attempt it) to con-
" vince the Engliſh nation, by arguments to *my*
" underſtanding unanſwerable, that they ought to
" inſiſt upon a triennial, and baniſh the idea of an
" annual parliament. . . . . I am con-
" vinced that, if ſhortening the duration of par-
" liaments (which in effect is keeping the repre-
" ſentative under the rod of the conſtituent) be
" not made the baſis of our new parliamentary ju-
" riſprudence, other checks or improvements ſig-
" nify nothing. On the contrary, if this be made
" the foundation, other meaſures may come in
" aid, and, as auxiliaries, be of conſiderable ad-
" vantage. Lord Chatham's project, for inſtance,
" of increaſing the number of knights of ſhires,
" appears to me admirable. . . . . As to cut-
" ting away the rotten boroughs, I am as much
" offended as any man at ſeeing ſo many of them
" under the direct influence of the crown, or at
" the diſpoſal of private perſons. Yet, I own,
" I have both doubts and apprehenſions, in regard
" to the remedy you propoſe. I ſhall be charged
" perhaps with an unuſual want of political intre-
" pidity, when I honeſtly confeſs to you, that I am
" ſtartled at the idea of ſo extenſive an amputa-
" tion.—In the firſt place, I queſtion the power,
" *de jure*, of the legiſlature to diſfranchiſe a num-
" ber of boroughs, upon the general ground of
" improving the conſtitution. There cannot be

" a doctrine more fatal to the liberty and property
" we are contending for, than that, which con-
" founds the idea of a *ſupreme* and an *arbitrary*
" legiſlature. I need not point out to you the fa-
" tal purpoſes, to which it has been, and may be
" applied. If we are ſincere in the political creed
" we profeſs, there are many things, which we
" ought to affirm, cannot be done by King, Lords
" and Commons. Among theſe I reckon the diſ-
" franchiſing of boroughs with a general view of
" improvement. I conſider it as equivalent to rob-
" bing the parties concerned of their freehold, of
" their birth-right. I ſay that, although this
" birth-right may be forfeited, or the exerciſe of
" it ſuſpended in particular caſes, it cannot be ta-
" ken away, by a general law, for any real or
" pretended purpoſe of improving the conſtitution.
" Suppoſing the attempt made, I am perſuaded
" you cannot mean that either King, or Lords
" ſhould take an active part in it. A bill, which
" only touches the repreſentation of the people,
" muſt originate in the houſe of commons. In
" the formation and mode of paſſing it, the exclu-
" ſive right of the commons muſt be aſſerted as
" ſcrupulouſly, as in the caſe of a money-bill.
" Now, Sir, I ſhould be glad to know by what
" kind of reaſoning it can be proved, that there is
" a power veſted in the repreſentative to deſtroy
" his immediate conſtituent. From whence could
" he poſſibly derive it? A courtier, I know, will
" be ready to maintain the affirmative. The doc-
" trine ſuits him exactly, becauſe it gives an ur-

" limited

" limitted operation to the influence of the crown.
" But we, Mr. Wilkes, ought to hold a different
" language. It is no anſwer to me to ſay, that the
" bill, when it paſſes the houſe of commons, is
" the act of the majority, and not the repreſenta-
" tives of the particular boroughs concerned. If
" the majority can diſfranchiſe ten boroughs, why
" not twenty, why not the whole kingdom? Why
" ſhould they not make their own ſeats in parli-
" ament for life?—When the ſeptennial act
" paſſed the legiſlature, did what, apparently and
" palpably, they had no power to do; but they
" did more than people in general were aware of:
" they, in effect, diſfranchiſed the whole kingdom
" for four years.

" For argument's ſake, I will now ſuppoſe,
" that the expediency of the meaſure, and the
" power of parliament are unqueſtionable. Still
" you will find an inſurmountable difficulty in the
" execution. When all your inſtruments of am-
" putation are prepared, when the unhappy pa-
" tient lies bound at your feet, without the poſſi-
" bility of reſiſtance, by what infallible rule will
" you direct the operation?—When you propoſe
" to cut away the *rotten* parts, can you tell us
" what parts are perfectly *ſound*?—Are there any
" certain limits, in fact or theory, to inform you
" at what point you muſt ſtop, at what point the
" mortification ends. To a man ſo capable of ob-
" ſervation and reflection as you are, it is unne-
" ceſſary to ſay all that might be ſaid upon the
" ſubject. Beſides that I approve highly of Lord

" Chatham's

"Chatham's idea *of infuſing a portion of new health "into the conſtitution to enable it to bear its infirmi-"ties*, (a brilliant expreſſion, and full of intrin-"ſic wiſdom) other reaſons concur in perſuading "me to adopt it. I have no objection, &c."

THE man who fairly and completely anſwers this argument, ſhall have my thanks and my applauſe. My heart is already with him.—I am ready to be converted.—I admire his morality, and would gladly ſubſcribe to the articles of his faith.—Grateful, as I am, to the GOOD BEING, whoſe bounty has imparted to me this reaſoning intellect, whatever it is, I hold myſelf proportionably indebted to him, from whoſe enlightened underſtanding another ray of knowledge communicates to mine. But neither ſhould I think the moſt exalted faculties of the human mind, a gift worthy of the divinity; nor any aſſiſtance, in the improvement of them, a ſubject of gratitude to my fellow creature, if I were not ſatisfied, that really to inform the underſtanding corrects and enlarges the heart.

JUNIUS.

FINIS.